

## Table of Contents

Agenda . . . . .	5
IV-1. Public Hearing and Request for Letter of Intent for Industrial Revenue Bonds, Wesley Medical Center, LLC. (District I)	
Agenda Report No. IV-1. . . . .	15
Letter of Intent Application . . . . .	17
IV-2. Public Hearing and Request for Letter of Intent for Industrial Revenue Bonds, Presbyterian Manors, Inc. (District VI)	
Agenda Report No. IV-2. . . . .	24
Letter of Intent Application . . . . .	26
IV-3. Amendment to Interlocal Cooperation Agreements, Presbyterian Manors, Inc. (Districts I and VI)	
Agenda Report No. IV-3. . . . .	33
Resolution No. 13-060 . . . . .	34
IV-4. Public Hearing and Issuance of Industrial Revenue Bonds, Douglas Place, LLC. (District I)	
Agenda Report No. IV-4. . . . .	37
Ordinance No. 49-484. . . . .	38
IV-5. Public Hearing and Approval of a Façade Improvement Project - 915 West Douglas. (District IV)	
Agenda Report No. IV-5. . . . .	41
Ordinance No. 49-485. . . . .	43
Facade Easement. . . . .	46
IV-6. Public Hearing and Adoption of Southfork Phase A Redevelopment Project Plan. (District III)	
Agenda Report No. IV-6. . . . .	52
Ordinance No. 49-490. . . . .	55
Southfork Project Plan Revised. . . . .	57
IV-7. Approval of Southfork Development Agreement and Pipeline Relocation and Reimbursement Agreement. (District III)	
Agenda Report No. IV-7. . . . .	86
Ordinance No. 49-486. . . . .	89
Agreement . . . . .	93
Southfork Development Agreement. . . . .	130
IV-8. Douglas Avenue Bus Facility Improvements in Downtown. (Districts I and VI)	
Agenda Report No. IV-8. . . . .	151
Douglas Ave Transit Improvement Project . . . . .	153
IV-9. Wichita Employee's Retirement and Police and Fire Retirement Systems Actuarial Valuation Reports as of December 31, 2012.	
Agenda Report No. IV-9. . . . .	169
PFRS 2013 Valuation Report (2) . . . . .	171
WERS 2012 Valuation Report . . . . .	234

IV-10. USD 259 McKinney-Vento Summer Activity Camp Agreement. (Districts I, III, and VI)	
Agenda Report No. IV-10 . . . . .	297
Summer Camp Agreement . . . . .	298
IV-11. Amendments to Chapter 3.11 and 4.16 of the City Code Relating to Community Events and Consumption of Alcoholic Liquor within Temporary Entertainment Districts.	
Agenda Report No. IV-11 . . . . .	304
Ordinance No. 49-487. . . . .	306
Delineated Ordinance. . . . .	316
IV-12. Health and Wellness Coalition of Wichita Community Transformation Grant Memorandum of Understanding.	
Agenda Report No. IV-12 . . . . .	326
Health Wellness Coalition MOU YMCA and COW for CTG Funds v5 . . . . .	328
II-1. Board of Bids.	
Board of Bids . . . . .	333
II-3. Preliminary Estimates.	
Agenda Report No. II-3 . . . . .	346
II-4a. Petition for Water Distribution System to Serve Newmarket V Addition.(District V)	
Agenda Report No. II-4a and CIP. . . . .	347
Map, Petition . . . . .	349
Resolution No. 13-063 . . . . .	353
II-5a. Community Events - Victory in the Valley East Meets West Walk/Run. (District VI)	
Agenda Report No. II-5a . . . . .	356
II-6a. Agreement for 2012 ASR Accounting Model.	
Agenda Report No. II-6a . . . . .	357
Agreement . . . . .	358
II-7a. Change Order No. 9 - 13th Street Improvements, Hydraulic to Oliver. (District I)	
Agenda Report No. II-7a and Change Order . . . . .	369
II-8a. Partial Acquisition of 10001 East Kellogg for the Improvement of the Kellogg Avenue, US Highway 54 from Cypress to Chateau. (District II)	
Agenda Report No. II-8a . . . . .	371
Supporting Documents . . . . .	372
II-8b. Partial Acquisition of 11006 East Kellogg for the Improvement of the Kellogg Avenue, US Highway 54 from Cypress to Chateau. (District II)	
Agenda Report No. II-8b . . . . .	376
Supporting Documents . . . . .	377
II-8c. Acquisition of 465 South Webb Road for the Improvement of the Kellogg Avenue, US Highway 54 from Cypress to Chateau. (District II)	
Agenda Report No. II-8c . . . . .	383
Supporting Documents . . . . .	384

II-10. Succession Resolution.	
Agenda Report No. II-10 Resolution No. 13-064 . . . . .	389
II-11. HOME Program: Housing Development Loan Program Funding. (Districts I, III, IV, V, and VI)	
Agenda Report No. II-11 . . . . .	390
Funding Agreement. . . . .	392
II-12. Report on Claims for March, 2013.	
Agenda Report No. II-12 . . . . .	422
II-13. Nuisance Abatement Assessments (Lot Cleanup). (Districts I, III, IV, V and VI)	
Agenda Report No. II-13, Ordinance No. 49-488 , and Property List . . . . .	423
II-14. Nuisance Abatement Assessments (Cutting Weeds).	
Agenda Report No. II-14 and Ordinance No. 49-489 . . . . .	428
II-15. Reinstatement and Extension of the Letter of Intent for Industrial Revenue Bonds, Bombardier Learjet. (District IV)	
Agenda Report No II-15. . . . .	443
II-16. Emergency Sanitary Sewer Repairs at Amidon and 40th Street North. (District VI)	
Agenda Report No. II-16 . . . . .	445
City Manager Memo. . . . .	446
II-17. Employee Health and Benefit Consultant.	
Agenda Report No. II-17 . . . . .	447
Employee Health and Benefit Consulting Agreement. . . . .	449
II-18. Civil Rights Litigation Defense Professional Legal Services.	
Agenda Report No. II-18 . . . . .	465
Fisher Patterson Sayler and Smith Contract 4-2-2013 Final. . . . .	466
II-19. Redbud Path Corridor Brownfield Assessment – Oliver to Woodlawn. (District I)	
Agenda Report No. II-19 . . . . .	474
Redbud Brownfield 2013 Wichita Redbud . . . . .	475
II-19a. Certificate of Canvass.	
Agenda Report No. II-19a. . . . .	486
II-20. Second Reading Ordinances.	
II-20 Second Reading Ordinances . . . . .	490
II-21. *SUB2012-00028 -- Plat of The Waterfront 8th Addition located east of Webb Road, on the north side of 13th Street North. (District II)	
Agenda Report No. II-21 . . . . .	491
Resolution No. 13-061 . . . . .	493
Resolution No. 13-062 . . . . .	495
Supporting Documents . . . . .	497
II-22. *SUB2012-00037 -- Plat of Johnson Estates Addition located south of Harry, on the west side of 127th Street East. (District II)	
Agenda Report No. II-22 . . . . .	504

Supporting Documents . . . . .	505
II-23. *DED2013-00007 - Dedication of Utility Easement located south of Maple, west of Hoover. (District IV)	
Agenda Report No. II-23 . . . . .	506
Supporting Documents . . . . .	507
II-24. *2013 Mainstream Funding Submission.	
Agenda Report No. II-24 . . . . .	509
Mainstream 50070 . . . . .	510
Mainstream 50071 . . . . .	511
Mainstream sf LLL . . . . .	512
Mainstream sf 424 . . . . .	514
Mainstream 52663 . . . . .	520
Mainstream 52672 . . . . .	521
Mainstream 52673 . . . . .	522
II-25. *EagleMed, LLC - Supplemental Agreement No. 2 for use of 1761 Airport Road, Suite 400 - Wichita Mid-Continent Airport.	
Agenda Report No. II-25 . . . . .	524
EagleMed SA2 . . . . .	525
II-26. *Airfield Grounds Maintenance Services - Wichita Mid-Continent Airport.	
Agenda Report No. II-26 . . . . .	528
Contract. . . . .	529



**FINAL**  
**CITY COUNCIL**  
**CITY OF WICHITA**  
**KANSAS**

City Council Meeting  
09:00 a.m. April 16, 2013

City Council Chambers  
455 North Main

**OPENING OF REGULAR MEETING**

- Call to Order
- Invocation
- Pledge of Allegiance
- Approve the minutes of the regular meeting on April 9, 2013

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**AWARDS AND PROCLAMATIONS**

- Proclamations:  
  
LOVE Wichita Day  
National Donate Life Month  
Celebrate Earth Week
- Service Award:  
  
Jerry Young

**I. PUBLIC AGENDA**

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a "first-come, first-served" basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city manager prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

1. Bill Anderson - Address certain aspects of the security screening at City Hall as it is applied to citizens, visitors, and employees.
2. Don Landis - The closing of Southeast High School.

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## **II. CONSENT AGENDAS (ITEMS 1 THROUGH 26)**

NOTICE: Items listed under the "Consent Agendas" will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the "Consent Agendas" and considered separately

*(The Council will be considering the City Council Consent Agenda as well as the Planning, Housing, and Airport Consent Agendas. Please see "ATTACHMENT 1 – CONSENT AGENDA ITEMS" for a listing of all Consent Agenda Items.)*

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## **COUNCIL BUSINESS**

### **III. UNFINISHED COUNCIL BUSINESS**

None

### **IV. NEW COUNCIL BUSINESS**

1. Public Hearing and Request for Letter of Intent for Industrial Revenue Bonds, Wesley Medical Center, LLC.  
(District I)

RECOMMENDED ACTION: 1) Close the public hearing and approve a Letter of Intent to Wesley Medical Center, LLC for Taxable Industrial Revenue Bonds in an amount not-to-exceed \$35,500,000, subject to the Letter of Intent Conditions, for a term of four years; 2) approve an 87% tax abatement on all bond-financed property for an initial five-year term plus an additional five years following City Council review; and 3) authorize the application for a sales tax exemption on bond-financed purchases.

2. Public Hearing and Request for Letter of Intent for Industrial Revenue Bonds, Presbyterian Manors, Inc.  
(District VI)

RECOMMENDED ACTION: Close the public hearing and approve a Letter of Intent for Health Care Facilities Refunding and Improvement Revenue Bonds to Presbyterian Manor, Inc., in an amount not-to-exceed \$110,000,000 subject to the Letter of Intent Conditions, including the allowance of a negative assurance 10b-5 tenant's counsel opinion letter, and authorize staff to apply for a sales tax exemption; subject to the Letter of Intent Conditions.

3. Amendment to Interlocal Cooperation Agreements, Presbyterian Manors, Inc. (Districts I and VI)

RECOMMENDED ACTION: Approve the resolution authorizing the execution of the amendment of the interlocal cooperation agreements and authorize necessary signatures.

4. Public Hearing and Issuance of Industrial Revenue Bonds, Douglas Place, LLC. (District I)

RECOMMENDED ACTION: Close the public hearing, place on first reading the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Industrial Revenue Bonds in an amount not exceed \$17,000,000 to Douglas Place, LLC, and authorize the necessary signatures.

5. Public Hearing and Approval of a Façade Improvement Project - 915 West Douglas. (District IV)

RECOMMENDED ACTION: Close the public hearing, approve the façade easement and place the maximum assessment ordinance for the 915 West Douglas facade improvements on first reading.

6. Public Hearing and Adoption of Southfork Phase A Redevelopment Project Plan. (District III)

RECOMMENDED ACTION: Close the public hearing and approve first reading of the ordinance adopting Southfork Phase A Project Plan.

7. Approval of Southfork Development Agreement and Pipeline Relocation and Reimbursement Agreement. (District III)

RECOMMENDED ACTION: Approve first reading of the ordinance approving the Southfork Development Agreement and the Pipeline Relocation and Reimbursement Agreement, and authorize the necessary signatures.

8. Douglas Avenue Bus Facility Improvements in Downtown. (Districts I and VI)

RECOMMENDED ACTION: Approve the design of the project.

9. Wichita Employee's Retirement and Police and Fire Retirement Systems Actuarial Valuation Reports as of December 31, 2012.

RECOMMENDED ACTION: Receive and file the Wichita Employees' Retirement and Police and Fire Retirement Systems' Actuarial Valuation Reports as of December 31, 2012 as submitted, and approve the 2014 employer retirement fund contribution rates.

10. USD 259 McKinney-Vento Summer Activity Camp Agreement. (Districts I, III, and VI)

RECOMMENDED ACTION: Approve the agreement with USD 259 and authorize the necessary signatures.

11. Amendments to Chapter 3.11 and 4.16 of the City Code Relating to Community Events and Consumption of Alcoholic Liquor within Temporary Entertainment Districts.

RECOMMENDED ACTION: Place the ordinances on first reading.

12. Health and Wellness Coalition of Wichita Community Transformation Grant Memorandum of Understanding.

RECOMMENDED ACTION: Approve the Memorandum of Understanding and authorize the necessary signatures.

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## **COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES**

### **PLANNING AGENDA**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

### **V. NON-CONSENT PLANNING AGENDA**

None

### **HOUSING AGENDA**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**Fern Griffith, Housing Member is also seated with the City Council.**

### **VI. NON-CONSENT HOUSING AGENDA**

None

### **AIRPORT AGENDA**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

### **VII. NON-CONSENT AIRPORT AGENDA**

None

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**COUNCIL AGENDA**

**VIII. COUNCIL MEMBER AGENDA**

None

**IX. COUNCIL MEMBER APPOINTMENTS**

1. **Board Appointments.**

RECOMMENDED ACTION: Approve the Appointments.

Adjournment

(ATTACHMENT 1 – CONSENT AGENDA ITEMS 1 THROUGH 26)

**II. CITY COUNCIL CONSENT AGENDA ITEMS**

1. Report of Board of Bids and Contracts dated April 15, 2013.

RECOMMENDED ACTION: Receive and file report; approve Contracts;  
authorize necessary signatures.

2. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renewal</u>	<u>2013</u>	<u>(Consumption on Premises)</u>
Roberto Beltran	Tacos Mexican Fast Food**	1930 East Pawnee
Miguel Reyes	Rostizeria Los Reyes**	512 West 21st North
Troy Hendricks	Auburn Hills Golf Course**	443 South 135th
Chen Lin	Bai Wei**	1845 South Rock Road
Stsephanie Riggs	Godfather's Pizza**	4840 South Broadway
<u>Renewal</u>	<u>2013</u>	<u>(Consumption off Premises)</u>
Son Tran	Speedway***	565 South Market

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

3. Preliminary Estimates:

RECOMMENDED ACTION: Receive and file.

4. Petitions for Public Improvements:

- a. Petition for Water Distribution System to Serve Newmarket V Addition. (District V)

RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

5. Consideration of Street Closures/Uses.

- a. Community Events - Victory in the Valley East Meets West Walk/Run. (District VI)

RECOMMENDED ACTION: Approve the request subject to; (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Events Coordinator.

6. Agreements/Contract:

- a. Agreement for 2012 ASR Accounting Model.

RECOMMENDED ACTION: Approve Agreements/Contracts; authorize the necessary signatures.

7. Change Order:

- a. Change Order No. 9 - 13th Street Improvements, Hydraulic to Oliver. (District I)

RECOMMENDED ACTION: Approve the Change Orders and authorize the necessary signatures.

8. Property Acquisitions:

- a. Partial Acquisition of 10001 East Kellogg for the Improvement of the Kellogg Avenue, US Highway 54 from Cypress to Chateau. (District II)  
b. Partial Acquisition of 11006 East Kellogg for the Improvement of the Kellogg Avenue, US Highway 54 from Cypress to Chateau. (District II)  
c. Acquisition of 465 South Webb Road for the Improvement of the Kellogg Avenue, US Highway 54 from Cypress to Chateau. (District II)

RECOMMENDED ACTION: Approve budgets and Contracts; authorize necessary signatures.

9. Minutes of Advisory Boards/Commissions

Board of Building Code Standards and Appeals, March 4, 2013  
Wichita Airport Advisory Board, March 4, 2013  
Board of Appeals of Plumbers and Gas Fitters, March 6th, 2013  
Joint Investment Committee, March 7, 2013

RECOMMENDED ACTION: Receive and file.

10. Succession Resolution.

RECOMMENDED ACTION: Adopt the Resolution.

11. HOME Program: Housing Development Loan Program Funding. (Districts I, III, IV, V, and VI)

RECOMMENDED ACTION: Approve the Housing Development Loan Program funding allocation and authorize the necessary signatures.

12. Report on Claims for March, 2013.

RECOMMENDED ACTION: Receive and file.

13. Nuisance Abatement Assessments (Lot Cleanup). (Districts I, III, IV, V and VI)

RECOMMENDED ACTION: Approve the proposed assessments and place the ordinance on first reading.

14. Nuisance Abatement Assessments (Cutting Weeds).

RECOMMENDED ACTION: Approve the proposed assessments and place the ordinance on first reading.

15. Reinstatement and Extension of the Letter of Intent for Industrial Revenue Bonds, Bombardier Learjet.  
(District IV)

RECOMMENDED ACTION: Approve the reinstatement and extension of the Letter of Intent for Industrial Revenue Bonds through December 31, 2013.

16. Emergency Sanitary Sewer Repairs at Amidon and 40th Street North. (District VI)

RECOMMENDED ACTION: Ratify the City Manager's Emergency approval of the repairs, authorize completion of the project, and authorize the necessary signatures.

17. Employee Health and Benefit Consultant.

RECOMMENDED ACTION: Approve the Contract with IMA, Inc. for one (1) year with an additional one year option to renew, followed by a six month renewal term followed by a period of three additional one-year terms, and authorize the necessary signatures.

18. Civil Rights Litigation Defense Professional Legal Services.

RECOMMENDED ACTION: Authorize the Mayor to sign the Contract for Legal Services and approve any necessary budget adjustments for payment of professional fees incurred.

19. Redbud Path Corridor Brownfield Assessment – Oliver to Woodlawn. (District I)

RECOMMENDED ACTION: Authorize staff to submit an application to KDHE for the Brownfield Targeted Site Assessment program for the Redbud Path corridor from Oliver Avenue to Woodlawn Boulevard, and authorize the necessary signatures.

19a. *Certificate of Canvass*

Certificate of Canvass of the votes in the General Election on April 2, 2013, determining that the following candidates were duly elected.

Council Member, District I  
Lavonta Williams

Council Member, District III  
James Clendenin

Council Member, District VI  
Janet L. Miller

Council Member, District IV, Unexpired Term  
Jeff Blubaugh

RECOMMENDED ACTION: Receive and file.



20. Second Reading Ordinances: (First Read April 9, 2013)  
a. Second Reading Ordinances.

RECOMMENDED ACTION: Adopt the Ordinances.

## **II. CONSENT PLANNING AGENDA ITEMS**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

21. \*SUB2012-00028 -- Plat of The Waterfront 8th Addition located east of Webb Road, on the north side of 13th Street North. (District II)

RECOMMENDED ACTION: Approve the documents and plat, authorize the necessary signatures, and adopt the Resolutions.

22. \*SUB2012-00037 -- Plat of Johnson Estates Addition located south of Harry, on the west side of 127th Street East. (District II)

RECOMMENDED ACTION: Approve the document and plat and authorize the necessary signatures.

23. \*DED2013-00007 - Dedication of Utility Easement located south of Maple, west of Hoover. (District IV)

RECOMMENDED ACTION: Accept the Dedication.

## **II. CONSENT HOUSING AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**Fern Griffith, Housing Member is also seated with the City Council.**

24. \*2013 Mainstream Funding Submission.

RECOMMENDED ACTION: Approve submission of the 2013 requisition for payment of annual contributions for the Section 8 Mainstream Program and authorize the necessary signatures.

## **II. CONSENT AIRPORT AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

25. \*EagleMed, LLC - Supplemental Agreement No. 2 for use of 1761 Airport Road, Suite 400 - Wichita Mid-Continent Airport.

RECOMMENDED ACTION: Approve the supplemental agreement and authorize the necessary signatures.

26. \*Airfield Grounds Maintenance Services - Wichita Mid-Continent Airport.

RECOMMENDED ACTION: Approve the contract and authorize the necessary signatures.

**City of Wichita  
City Council Meeting  
April 16, 2013**

**TO:** Mayor and City Council

**SUBJECT:** Public Hearing and Request for Letter of Intent for Industrial Revenue Bonds  
(Wesley Medical Center, LLC) (District I)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendation:** Close the public hearing and approve the Letter of Intent for Industrial Revenue Bonds (IRBs).

**Background:** Wesley Medical Center, LLC (“Wesley”) is a regional acute care medical center licensed for 760 beds and 102 bassinets. Wesley is requesting a Letter of Intent for Industrial Revenue Bonds in an amount not-to-exceed \$35,500,000 for the purpose of financing the cost of remodeling and equipping a portion of the facility located at 550 N. Hillside, near Central and Hillside. Wesley is also requesting a 100% five-year tax exemption on bond-financed property, plus a second five-year exemption subject to City Council approval.

**Analysis:** Wesley Medical Center was founded in 1912 by a regional organization of the Methodist Church. Wesley has been owned by the Hospital Corporation of America since 1985. Wesley employs more than 3,000 medical staff, including 900 physicians. The facility provides a full range of diagnostic and treatment services for patients. Over 25,000 adults and children are treated as inpatients and more than 6,000 babies are born each year at Wesley. A recent analysis provided by Wesley shows that over 70% of the hospital’s revenue is derived from patients residing outside Sedgwick County.

Wesley is considering renovations and additions to its women and children’s services as follows: The Women’s Hospital (Building 3) will receive an upgrade to its emergency power systems, medical air, O<sub>2</sub>, vacuum systems, infant protection system, HVAC systems, plumbing, fire suppression systems, fire alarm systems, nurse call, code blue systems and ADA accessibility. In addition, recognizing that many Women’s Hospital patients stay for multiple weeks, the hospital plans include creating new exterior patios on floors three, four and five. Currently vacant space will be renovated and utilized for eight private higher acuity post-partum rooms and an eight-bay well baby holding nursery. Isolation rooms will be added to each floor of Building 3. Vacant space on the fourth floor of Building 2 created by the relocation of a laboratory will be used to create eight private ante-partum and gynecologic patient rooms. Wesley plans to hire 45 new employees over three years at an average annual salary of \$55,000.

An analysis of the uses of project funds is:

**USES OF FUNDS**

	Low Estimate	High Estimate
Building Renovation	\$23,000,000	\$26,000,000
Information Technology	\$1,500,000	\$3,000,000
<u>Medical Equipment</u>	<u>\$5,500,000</u>	<u>\$7,000,000</u>
Total Cost of Project	\$30,000,000	\$36,000,000

**Financial Considerations:** Wesley agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. It is anticipated that the bonds will be purchased by Wesley Medical Center, LLC.

The cost/benefit analysis performed by the WSU Center for Economic Development and Business Research reflects the following benefit-cost ratios:

City of Wichita	1.49 to one
City General Fund	1.30 to one
City Debt Service Fund	1.80 to one
Sedgwick County	1.33 to one
U.S.D. No. 259	1.26 to one
State of Kansas	3.50 to one

City staff and Wesley have negotiated the terms of a property tax abatement designed to abate the taxes only on real property improvements actually financed through a bond issue. Under this arrangement, all bond-financed improvements will be subject to 87% abatement for a five-year initial term, plus a second five years subject to Council review and approval. Wesley has also requested sales tax exemption on taxable purchases financed with IRBs. The sales tax exemption would save approximately \$1,500,000.

The estimated first year's taxes on Wesley's expansion would be \$56,764 on real property improvements, based on the 2012 mill levy. The tax abatement would be shared among the taxing entities as follows: City - \$48,388; County/State - \$44,004; and USD 259 - \$64,372.

**Legal Considerations:** The law firm of Gilmore & Bell, PC will serve as bond counsel in the transaction. The form of bond documents shall be subject to review and approval by the Law Department prior to the issuance of any bonds.

**Recommendations/Actions:** It is recommended that the City Council: 1) close the public hearing and approve a Letter of Intent to Wesley Medical Center, LLC for Taxable Industrial Revenue Bonds in an amount not-to-exceed \$35,500,000, subject to the Letter of Intent Conditions, for a term of four years; 2) approve an 87% tax abatement on all bond-financed property for an initial five-year term plus an additional five years following City Council review; and 3) authorize the application for a sales tax exemption on bond-financed purchases.

**Attachments:** Letter of Intent Application

April 2, 2013  
Mayor Carl Brewer and Members of City Council  
City of Wichita, City Hall  
455 N. Main Street  
Wichita, KS 67202

**RE: Proposed Approximately \$35,500,000 City of Wichita, Kansas, Taxable Industrial Revenue Bonds, Wesley Medical Center, LLC (Tenant)**

As you know, Wesley Medical Center, LLC (Wesley), a healthcare provider company, is a long standing and valuable contributor to the health and well being of all area residents, dedicated to patient care and comfort. With over 3000 medical staff and over 900 physicians, Wesley is one of the largest employers in Wichita. In addition, Wesley receives revenue from payors and patients outside of the local market. Wesley's mission statement is to care by ensuring quality healthcare, providing compassion, offering comfort, and building trust with every patient, every time. In pursuit of achieving their mission, the company believes that investments are necessary in terms of having state of the art facilities and equipment for patient care, but also to attract and retain some of the finest doctors, nurses, and healthcare professionals in the area. Wesley recognizes that its greatest asset is the people it employs. Wesley believes that the combination of people and facility investment yield an increased customer base, including from non-local sources, for the hospital.

Wesley currently is planning an investment and renovation of the Women's and Children's Service area of approximately \$35,500,000. As mentioned above, the hospital employs approximately 3,000 medical staff and 900 physicians. This investment is estimated to produce 20 new full time employees during the first year and a total of 45 new full time employees over the first five years.

At this time, we are requesting your support for the issuance of approximately \$35,500,000 City of Wichita, Kansas, Taxable Industrial Revenue Bonds. We would greatly appreciate any support we can receive on the retention and expansion of this renovated regional medical center through the City's issuance of Industrial Revenue Bonds and the property tax savings associated with this financing method. The planned investment, growth, and expansion is a substantial investment and any incentives will be helpful in offsetting the capital requirements associated with this expansion project and will be helpful in supporting our business case to move forward with the investment and job creation.

Wesley has always been committed to being a good corporate citizen and supporting the local Wichita economy. I look forward to working with you and Members of the Council on this project and am always available to answer any questions regarding this expansion project.



Glen Page  
Senior Manager – Business Credits & Incentives

**WESLEY MEDICAL CENTER, LLC (TENANT)**

**CITY OF WICHITA**

**TAXABLE INDUSTRIAL REVENUE BOND**

**APPLICATION**

**TABLE OF CONTENTS:**

- I. COVER LETTER**
- II. APPLICATION FOR LETTER OF INTENT**
- III. FINANCE COMMITMENT**

March 6, 2013

Mayor Carl Brewer and Members of City Council  
City of Wichita, City Hall  
455 N. Main Street  
Wichita, KS 67202

**RE: Proposed Approximately \$35,500,000, City of Wichita, Kansas, Taxable Industrial Revenue Bonds, Wesley Medical Center, LLC (Tenant)**

The Honorable Mayor Brewer and City Council Members:

This letter is to request approval by the governing body of the City of Wichita, Kansas, of a Letter of Intent to issue its Industrial Revenue Bonds in an amount not to exceed \$35,500,000.00. The proceeds of the proposed Bonds will be used to finance the cost of constructing, renovating, and equipping the Women's and Children's Service Area of the Wesley Medical Center ("Wesley") which will be leased to Wesley Medical Center, LLC.

**1. Name and Address of Applicant**

Tenant: Wesley Medical Center  
550 N. Hillside Street  
Wichita, KS 67214

Proposed Address: Wesley Medical Center  
550 N. Hillside Street  
Wichita, KS 67226

**2. A general description of the nature of the business of the Applicant**

Wesley Medical Center is one of the most experienced and comprehensive medical centers in Kansas and northern Oklahoma. Wesley is committed to the care and improvement of human life. In recognition of this commitment, we strive to deliver high quality, cost-effective healthcare in the communities we serve.

Wesley Medical Center is an acute-care center licensed for 760 beds and 102 bassinets. The facility provides a full range of diagnostic and treatment services for patients. Annually, over 25,000 adults and children are inpatients and more than 6,000 babies are born at Wesley. The hospital was founded in 1912.

**3. Key Officers and Employees of Wesley Medical**

Samuel N. Hazen	President
Sylvia Young	Senior Vice President
Jon Foster	Senior Vice President
Donald W. Stinnett	Senior Vice President
Robert A. Waterman	Senior Vice President



#### **4. General Description of the Women's and Children's Services Project**

Wesley would like to invest in infrastructure for new and existing healthcare practices. The investment will be used to renovate the existing facility and expand and add additional capacity. The expansion and renovation are viewed as critical components in the hospitals comprehensive plan designed to achieve its mission and vision statements. From a planning standpoint, much of the development, construction, and expansion in this project is achieved by renovating and maximizing the use of existing space. This investment will help Wesley to continue to offer valuable and affordable services to the community, helping Wesley to recruit outstanding medical professionals. This multi-faceted expansion project is outlined below:

The Women's hospital originally constructed in 1967 will be renovated as follows:

- Women's hospital (Building 3) will upgrade emergency power systems, medical air, O2, vacuum systems, infant protection system, HVAC systems, plumbing, fire suppression systems, fire alarm systems, nurse call, code blue systems and ADA accessibility. In addition, recognizing that many Women's hospital patients stay for multiple weeks, the hospital plans include creating new exterior patios on floors three, four, and five.
- Recently, the endoscopy unit has moved from the 5<sup>th</sup> floor of building 2 to the Tower building. The vacant space created by the endoscopy move will be renovated and utilized for 8 private higher acuity post-partum rooms and an 8 bay well-baby holding nursery.
- Addition of designated isolation rooms on each floor of building 3.
- Vacant space on the fourth floor of building 2 created by way of the relocation of the Neurodiagnostic Laboratory will be used to create 8 private ante-partum and gynecologic patient rooms.

The below chart provides a range of estimated total potential investment at Wesley Medical Facility:

<b><u>Description</u></b>	<b><u>Low Range</u></b>	<b><u>High Range</u></b>	<b><u>Years</u></b>
Building	\$23,000,000	\$26,000,000	2013 – 2016
Information Technology	\$1,500,000	\$3,000,000	2013 – 2016
Medical Equipment	\$5,500,000	\$7,000,000	2013 – 2016
<b>Total</b>	<b>\$30,000,000</b>	<b>\$36,000,000</b>	<b>2013– 2016</b>



Wesley expects to add an estimated 20 new full time employees during year one of the expansion and approximately 45 new full time employees during the first five years. Starting wages for the new employees average in excess of \$50,000 per year and include quality benefits.

**5. Dollar amount of the Bonds requested**

The total original principal amount of the Bonds requested is approximately \$35,500,000.

**6. A detailed breakdown of the proposed costs including an estimate of issuance expenses**

Currently, there are two alternatives regarding the bond issuance (1) a single issuance for the full amount in year one, or (2) a separate issuance during each of the first four years of construction.

**Source of Funds:**

2013 Bond Proceeds	\$4,500,000
2014 Bond Proceeds	\$14,500,000
2015 Bond Proceeds	\$12,500,000
2016 Bond Proceeds	<u>\$4,000,000</u>
Total Sources	\$35,500,000

**Use of Proceeds:**

Real Property Improvements	\$27,500,000
Equipment Purchases	<u>\$8,000,000</u>
Total Uses	\$35,500,000

**7. The name and address of Bond Counsel**

Gilmore & Bell, PC  
ATTN: Brian McLeod  
100 North Main, Suite 800  
Wichita, KS 67202  
Telephone (316) 268-4681

**8. The name and address of Applicant Counsel**

Steve Jasper  
Bass Berry Sims  
150 Third Avenue South, Suite 2800  
Nashville, TN 37201  
615-742-7772

Thomas & Thorngren  
National Tax Credits and Incentives  
9643 Brock Road  
Plain City, OH 43064  
Telephone (614) 873-0143  
ATTN: Joshua Hole

**9. A statement relative to ad valorem taxes**

The applicant respectfully requests that the property constructed and renovated by Wesley Medical Center, LLC with the proceeds of the bonds be exempted from Kansas ad valorem property taxes for a ten (10) year period permitted by Kansas law. The Applicant agrees to enter into an agreement for Payment in Lieu of Taxes (PILOT) as it relates to the existing property. The tax abatement will permit the Applicant to proceed with the anticipated Project, allow for its anticipated growth, and result in the public benefits otherwise outlined herein.

**10. Administrative service fee agreements**

The Applicant agrees to make a payment to the City to reimburse the City for administrative costs in the amount of \$2,500 per year commencing one (1) year after delivery of the bonds. In addition, the Applicant will pay all costs of the City relative to the issuance of Bonds.

**11. A brief statement with respect to Benefits**

The issuance of Industrial Revenue Bonds will be used to allow Wesley to continue to offer deliver high quality, cost-effective healthcare in the communities we serve. The savings in property tax will be used to assist Wesley with the investment in capital and people. The benefits to the City will include the creation and retention of high paying jobs with quality benefits. The investment in the facilities will help Wesley to retain and recruit doctors, nurses, and health care professionals. The combination of investment and job creation and retention will increase economic activity in the area.

**12. A brief statement relative to the effects of the proposed project on the ambient air quality of the City of Wichita and Sedgwick County**

To the best of our knowledge, the proposed expansion will have no effect on the ambient air quality of the City of Wichita or Sedgwick County, nor are there any other anticipated adverse environmental effects. The Applicant will comply with all applicable policies and requirements of the City of Wichita relating to environmental matters.

**13. A brief statement with respect to Equal Employment Opportunities**

The Applicant will comply with all policies of the City of Wichita, Kansas with respect to equal employment opportunity.

**14. Arrangement for the sale of the Bonds**

The bonds will be purchased by the Applicant, Wesley Medical Center, LLC.

**15. Summary**

To permit the Applicant to finalize the financing for the project, it is requested at this time that the City Council authorize the Mayor to execute a Letter of Intent for and on behalf of the City wherein the City declares its intent to issue approximately \$35,500,000 of its City of Wichita,

Kansas, Taxable Industrial Revenue Bonds, Series 2013 – 2016, for the purposes described above.

The Applicant is aware that such a Letter of Intent is only an indication of the City to issue the proposed Bonds to assist in the financing of the Project, and that such Letter of Intent is subject in all respects to the governing body's final approval of the terms and provisions of the Bond Resolution, Trust Indenture, Lease Agreement, Guarantee Agreement, and other related documents. However, upon issuance of the Letter of Intent, the Applicant is prepared to proceed in reliance thereon. Should there be any questions or requests for further information in the course of the City's evaluation of this application, we will be pleased to promptly respond thereto.

Respectfully Submitted,  
On behalf of  
Wesley Medical Center

By: Glen Page

**Glen Page**  
**Senior Manager – Business Credits and Incentives**

**City of Wichita  
City Council Meeting  
April 16, 2013**

**TO:** Mayor and City Council

**SUBJECT:** Public Hearing and Request for Letter of Intent for Industrial Revenue Bonds  
(Presbyterian Manors, Inc.)(District VI)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendation:** Close the public hearing and approve the Letter of Intent.

**Background:** Since 1990, the City of Wichita has issued refunding and improvement revenue bonds for the benefit of Presbyterian Manors, Inc. (“PMI”), a Kansas not-for-profit corporation, to finance or refinance PMI facilities located throughout Kansas. Through a series of interlocal agreements, the City of Wichita has agreed to serve as a “host” bond issuer in order to facilitate consolidated financings of PMI facilities in Kansas. As a result of this financing arrangement, PMI relocated its corporate headquarters to Wichita, at 6525 E. Mainsgate. There is a Presbyterian Manor residential facility located at 4700 W. 13<sup>th</sup> Street in Wichita.

At this time, PMI wishes to refinance its outstanding bonds (Series III, 2004 and Series III, 2007) and finance new improvements at several of its facilities throughout the state. PMI is requesting City Council approval of a two-year Letter of Intent to issue its Health Care Facilities Refunding and Improvement Revenue Bonds in an amount not to exceed \$110,000,000.

**Analysis:** PMI and its predecessors have operated Presbyterian Manors facilities for 65 years. PMI owns and operates 16 retirement facilities in Kansas and Missouri, which have an aggregate of 1,472 licensed adult care beds and 555 additional retirement units. PMI was organized to operate retirement communities and independent living centers, provide other long-term care services for older individuals and disabled persons, and offer accommodations and services especially designed to meet the physical, social, spiritual and psychological needs, and to contribute to the health, security, sense of well-being and usefulness of older individuals and disabled persons.

Bond proceeds will be used primarily to refinance currently existing debt and pay costs of issuance. Approximately \$28,000,000 will be used to fund improvements associated with Phase I of a repositioning project of the Wichita facility and \$7,000,000 will be used to construct improvements for the PMI Kansas facilities located in Arkansas City, Kansas City, Lawrence, Newton, Parsons and Topeka. A second series of bonds will be used to fund the improvements associated with Phase II of the repositioning project of the Wichita facility in 2014, in the amount of approximately \$22,500,000.

An estimated analysis of the uses of project funds is:

### **USES OF FUNDS**

	Series 2013 <u>Financing</u>	Series 2014 <u>Financing</u>	Combined <u>Total</u>
New money capital projects	\$35,089,171	\$22,570,363	\$57,659,534
Refunding of outstanding bonds	27,734,658		27,734,658
Funded interest	1,938,899	2,922,318	4,861,217
Debt service reserve funds	3,338,475	2,141,575	5,480,050
Costs of issuance including underwriter's discount	2,312,085	1,160,720	3,472,805
Contingency for original issue discount and other	7,666,713	3,125,024	10,791,737
	<u>\$78,080,000</u>	<u>\$31,920,000</u>	<u>\$110,000,000</u>

B.C. Ziegler and Company in Chicago, Illinois, has agreed to underwrite the bonds. The firm of Gilmore & Bell, PC, will serve as bond counsel in the transaction. Presbyterian Manor, Inc, agrees to comply with the Standard Letter of Intent Conditions.

**Financial Considerations:** Presbyterian Manor, Inc. agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. Presbyterian Manor, Inc. is generally exempt from ad valorem property taxes pursuant to Kansas law. Therefore no tax exemption is requested in connection with the issuance of Health Care Facilities Revenue Bonds.

**Legal Considerations:** Bond documents needed for the issuance of the bonds will be prepared by bond counsel. The form of bond documents shall be subject to review and approval by the Law Department prior to the issuance of any bonds. The public hearing held in conjunction with this item is in compliance with the Tax Equity and Fiscal Responsibility Act (TEFRA) Hearing requirement in the federal tax code for tax-exempt bonds. Cities with PMI facilities financed or refinanced by the proposed bond issue will also hold TEFRA hearings prior to the issuance of the bonds.

PMI has requested a waiver of the current IRB letter of intent condition regarding the form of tenant's counsel opinion letter required to be submitted to the underwriter and City prior to the closing of an underwritten bond issue, known as an SEC Rule 10b-5 letter. The City's bond counsel firm, Gilmore & Bell, PC, has researched this matter and recommends that the City allow the more common "negative assurance" 10b-5 opinion. The Law Department concurs with Bond Counsel's recommendation. This waiver was recently granted to Larksfield Place.

**Recommendations/Actions:** It is recommended City Council close the public hearing and approve a Letter of Intent for Health Care Facilities Refunding and Improvement Revenue Bonds to Presbyterian Manor, Inc., in an amount not-to-exceed \$110,000,000 subject to the Letter of Intent Conditions, including the allowance of a negative assurance 10b-5 tenant's counsel opinion letter, and authorize staff to apply for a sales tax exemption; subject to the Letter of Intent Conditions.

**Attachments:** Letter of Intent Application.

March 14, 2013

Mayor and Members of the City Council  
City of Wichita  
City Hall - 455 North Main  
Wichita, KS 67202

Re: Proposed Not to Exceed \$110,000,000 City of Wichita, Kansas  
Health Care Facilities Revenue Bonds  
(Presbyterian Manors, Inc.)

Dear Mayor and Council Members:

This letter is to request approval by the governing body of the City of Wichita, Kansas, of a Letter of Intent to issue its Health Care Facilities Revenue Bonds in one or more series in an amount not to exceed \$110,000,000. The proceeds of the proposed first series of Bonds (estimated not to exceed \$90,000,000) will be used to pay the costs of refunding on an advanced and current basis certain City of Wichita, Kansas Health Care Facilities Revenue Bonds issued for the benefit of Presbyterian Manors, Inc. ("PMI"), as more particularly described herein (the "Existing Bonds"). In addition, approximately \$28,100,000 of the proceeds of the proposed Bonds will be used to fund improvements associated with Phase I of a repositioning project at the Wichita Presbyterian Manor located 4700 W 13<sup>th</sup> Street, Wichita, Kansas and approximately \$7,000,000 to fund improvements to other PMI Kansas communities located in Arkansas City, Kansas City, Lawrence, Newton, Parsons, and Topeka, Kansas. A second series of Bonds are anticipated to be issued in 2014 to finance the costs of Phase II of the repositioning project at the Wichita Presbyterian Manor campus. The sources and uses and other financing terms summarized below relate to the proposed first series of Bonds for the Phase I project, the two refundings and the miscellaneous improvements to other PMI campuses in Kansas.

The Existing Bonds were issued by the City for the purpose of allowing PMI to finance and refinance certain health care communities located in following Kansas cities: Arkansas City, Clay Center, Dodge City, Emporia, Ft. Scott, Kansas City, Lawrence, Newton, Parsons, Salina, Topeka and Wichita.

The City of Wichita has entered into an Inter-local Cooperation Agreement with each of the municipalities involved in order to facilitate such financings and has acted in the capacity of Issuer of the Existing Bonds with the approval of each participating municipality.

1. Name and Address of All Persons who would be Obligated as either Tenant or Guarantor on the Bond Documents.

Presbyterian Manors, Inc.  
6525 East Mainsgate  
Wichita, Kansas 67226-1062  
Attention: Mr. Bruce H. Shogren  
President/CEO  
bshogren@pmma.org  
316-652-6245

2. Names and Addresses of Board of Trustees, Officers and Key Employees of Proposed Beneficiary

BOARD of TRUSTEES

Mr. Dan Harris	Dodge City, KS	Chairperson
Rev. Howard Gleason	St. Louis, MO	Vice-Chairperson
Mr. Constance Banwart	Ft. Scott, KS	
Mr. James Cook	St Louis, MO	
Mr. Theodore Ice	Newton, KS	
Mrs. Elizabeth McKell	Overland Park, KS	
Ms. Eleanor Nelson	Lenexa, KS	
Mr. Lyman Ott, PhD	Mission Hills, KS	
Mr. Ronald Ridgway	St, Louis MO	
Mr. Randall Wedel	Overland Park, KS	
Mr. John Wells	Wichita, KS	
Mrs. Constance Wood	Topeka, KS	
Rev Landon Whatsitt	Leawood, MO	Ex-Officio

OFFICERS & KEY EMPLOYEES

Mr. Bruce H. Shogren, CPA	Hesston, KS	President/CEO
Ms. Beverly Woodsmall, CPA	Augusta, KS	Chief Financial Officer/Treasurer
Ms. Joan Miller	Wichita, KS	Assistant Treasurer & Controller
Mr. Doug Yoder	Lawrence, KS	Chief Operating Officer/Sr Vice
		President of Operations and
		Community Development and
		Construction

OFFICERS & KEY EMPLOYEES-Continued

Ms. Susan Fry	Wichita, KS	Sr. Vice President Health & Wellness Services
Ms. Karen Harriman	Wichita, KS	Sr. Vice President of Marketing/Public Relations/Communications
Mr. Jerry Delashaw	Wichita, KS	Sr. Vice President for Corporate Purchasing Contracts and Program and Chief Compliance Officer
Ms. Ethel Smith	Valley Center, KS	Sr Vice-President Human Resources
Mr. Ed Shafer	Merriam, KS	Sr Vice-President Development
Ms. Kim Fanning	Columbia, MO	Sr Vice-President Education
Ms. Sherry K. Hind	Newton, KS	Vice-President Corporate Administrative Services

3. A General Description of the Nature of the Business of the Requesting Tenant and a List of the Principal Competition in the Local Market.

PMI is a Kansas non-stock not-for-profit corporation, originally incorporated in 1948 and is a tax-exempt charitable organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, exempt from federal income taxation under Section 501(a) of the Code. PMI and its predecessors have operated Presbyterian Manors' communities for more than 64 years. PMI owns and operates 16 retirement communities in Kansas and Missouri, which have an aggregate of 1,427 licensed adult care beds and 555 additional retirement units.

PMI was organized to (1) operate retirement communities and independent living centers; (2) provide other long-term care services for older individuals and disabled persons; and (3) offer accommodations and services especially designed to meet the physical, social, spiritual and psychological needs, and to contribute to the health, security, sense of well-being and usefulness of older individuals and disabled persons.

PMI has traditionally been a leader in developing the concept of a "continuing care retirement community" (CCRC). As early as the mid-1960's when most of its competitors were focusing on only skilled nursing communities and services, PMI was developing "intermediate care," "assisted living" and "retirement apartment" communities. The CCRC concept is to develop a comprehensive care community based on the logical aging process: independent retirement apartments, assisted living units, intermediate care nursing and skilled nursing units.

PMI is solely owned by Presbyterian Manors of Mid-America, Inc. ("PMMA"), a Wichita based not-for-profit corporation. PMI and PMMA are both headquartered in Wichita, Kansas. PMMA employs approximately 60 persons at its home office and PMI employs approximately 100 persons at its Wichita community location.

PMI's principal competition in Wichita, Kansas consists of other not-for-profit CCRC's including Larksfield Place and Via Christi Senior Services.



4. A General Description of the Proposed Projects and Improvements and
5. Specific Locations of the Proposed Projects and Improvements.

The refunding portion of the proposed first series of Bonds will consist of the current and advanced refunding of the following outstanding City of Wichita, Kansas Bonds:

- A. City of Wichita, Kansas  
Health Care Facilities Refunding and Improvement Revenue Bonds  
Series III, 2004  
(Presbyterian Manors, Inc.)

Issued for the purpose of paying the costs of financing or refunding certain bonds issued for paying the costs of improvements to the PMI communities located in Arkansas City, Kansas, Dodge City, Kansas, Emporia, Kansas, Fort Scott, Kansas, Kansas City, Kansas, Lawrence, Kansas, Newton, Kansas, Salina, Kansas, and Topeka, Kansas.

- B. City of Wichita, Kansas  
Health Care Facilities Refunding and Improvement Revenue Bonds  
Series III, 2007  
(Presbyterian Manors, Inc.)

Issued for the purpose of paying the costs of financing or refunding certain bonds issued for paying the costs of improvements to the PMI communities located in Arkansas City, Kansas, Clay Center, Kansas, Dodge City, Kansas, Emporia, Kansas, Fort Scott, Kansas, Kansas City, Kansas, Lawrence, Kansas, Newton, Kansas, Parsons, Kansas, Salina, Kansas, Topeka, Kansas, and Wichita, Kansas.

In addition, approximately \$28,000,000 of the proceeds of the proposed first series of Bonds will be used to fund improvements associated with Phase I of a repositioning project at the Wichita Presbyterian Manor located 4700 W 13<sup>th</sup> Street, Wichita, Kansas and approximately \$7,000,000 to fund improvements to other PMI Kansas communities located in Arkansas City, Kansas City, Lawrence, Newton, Parsons, and Topeka, Kansas. As noted above, the proceeds of the proposed second series of Bonds will be used to fund the improvements associated with Phase II of the repositioning project at Wichita Presbyterian Manor.

6. Statement of Project Benefits to the City of Wichita.

The proposed financing and the redevelopment will be a significant investment in the greater Wichita area. The economic benefits of new construction will provide thousands of dollars in new spending, employ an estimated 450 construction workers, and will create expanded career opportunities on our Wichita campus. This repositioning project is yet another example of PMI's commitment to the betterment of the City of Wichita and the surrounding region, as well as an opportunity to further our mission of providing quality senior living services to older adults and their families for years to come. We are building for the long-term future of our organization, for the local economy and, most importantly, for the older adults within the Wichita community that PMI serves.

7. The Dollar Amount of the Bonds Requested.

The total principal amount of the Bonds (consisting of one or more series) requested will not exceed \$110,000,000.

8. A Detailed Breakdown of the Proposed Costs Including an Estimate of the Underwriting Fees and Other Miscellaneous Expenses.

Please see **Exhibit B** for estimated costs including underwriting fees and other miscellaneous expenses associated with the proposed first series of Bonds. Estimated costs would be proportional for any second series of Bonds in 2014..

9. Name and Address of the Proposed Underwriters

B.C. Ziegler and Company  
200 South Wacker Drive, Suite 2000  
Chicago, IL 60606

Contacts: Daniel J. Herman

William R. Carney

Jennifer J. Lavelle

Senior Managing Director and Head of  
Investment Banking

Managing Director

Senior Vice President

Underwriter's Counsel:

Thompson Coburn LLP

One US Bank Plaza

St. Louis, MO 63101

Contact: Sara Kotthoff, Esq.

10. Agreement to Pay for Services of Bond Counsel

PMI agrees to pay for the services of the bond counsel selected by the City of Wichita. In addition, PMI agrees to pay all costs incurred by the City relating to the issuance of the Bonds regardless of whether the Bonds are ultimately approved or issued.

11. A Statement Relative to Ad Valorem Taxes.

PMI is a not-for-profit Kansas corporation providing housing for elderly persons and operating adult care homes, and is generally exempt from ad valorem taxes pursuant to Kansas law. Therefore, no ad valorem tax abatement is being requested in connection with the Bonds.

12. Administrative Service Fee Agreement.

PMI agrees to make a payment to the City to reimburse the City for administrative costs in the amount of \$2,500 per year per Bond issue commencing one year after the delivery of the Bonds.

In addition, the Applicant will pay all costs of the City relative to the issuance of the Bonds regardless of whether the Bonds are ultimately approved or issued.

13. Brief Statement Relative to the Effects of the Proposed Expansion on the Ambient Air Quality of the City of Wichita and Sedgwick County.

The proposed financing will have no effect on the ambient air quality of the City of Wichita and Sedgwick County, nor are there any other anticipated adverse environmental effects. The Applicant will agree to comply with the City's policies and requirements relating to environmental matters.

14. Any Other Information which would be Helpful or which is Desired to be Given to Help Determine the Propriety of the City Issuing the Proposed Bonds.

The City of Wichita has been supportive of PMI's efforts to simplify the bond issuance process by acting as a conduit issuer for the other PMI communities in Kansas. Through the Inter-local Cooperation Agreements with various cities and governments in Kansas, PMI has achieved low cost financing and provided quality care to seniors across the state. PMI is a quality, not-for-profit senior living provider with over 1,800 senior living units in Kansas (includes independent living, assisted living and nursing).

PMI is evaluating the addition of Aberdeen Village, Inc. ("AVI") to the PMI Obligated Group under the PMI Master Indenture. AVI is a sister corporation that owns and operates the Aberdeen Village senior living community in Olathe, Kansas. PMMA, the parent corporation, manages both PMI and AVI.

In addition, PMI is seeking to update and modernize the basic bond financing documents that have been in place with the City in 1990 under which all prior bond issues of the City on behalf of PMI have been issued. PMI will also be amending and restating its Master Trustee Indenture, which provides a portion of the security for the Existing Bonds and the proposed new Bond issue. See the Legal Memorandum attached as Exhibit F, which PMI counsel is prepared to review with City legal staff and City bond counsel.

The following exhibits are included as additional information:

- **Exhibit A** PMI's audited financial statements for the fiscal years ended June 30, 2012 and 2011.
- **Exhibit B** AVI's audited financial statements for the fiscal years ended June 30, 2012 and 2011.
- **Exhibit C** Estimated costs including underwriting fees and other miscellaneous expenses.
- **Exhibit D** Map of PMI and AVI community locations.
- **Exhibit E** Ziegler's statement of willingness to underwrite the Bonds.
- **Exhibit F** Legal Memorandum regarding proposed updates to Bond financing documents in conjunction with issuance of the proposed Bonds.

PMI will comply with all applicable letter of intent conditions required by the City of Wichita. PMI respectfully requests a waiver of Condition 23. In lieu thereof, PMI will provide a tenant counsel opinion addressed to the City with respect to the offering document for the proposed Bonds that reads in relevant part that in the course of such counsel's participation in the preparation of the offering document, nothing has come to the attention of such counsel which leads him or her to believe that the offering document contains any untrue statement of a material fact, or omits to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. The 10b-5 assurance would exclude customary portions of the offering document, such as financial statements and feasibility studies.

To permit PMI to finalize the proposed plan of finance, it is requested at this time that the City Council authorize the Mayor to execute a Letter of Intent for and on behalf of the City whereby the City indicates its intent to issue its Health Care Facilities Revenue Bonds in a par amount not to exceed \$110,000,000 for the purposes described herein. Applicant respectfully requests that such Letter of Intent be valid for a period of 24 months. PMI presently anticipates that the second series of Bonds would be issued by the end of calendar year 2014.

PMI is aware that such a Letter of Intent is only an indication of the intent of the City to issue the proposed Bonds to assist in financing the refunding and improvement projects and that such Letter of Intent is subject in all respects to the governing body's final approval of the terms and provisions of the Bond Ordinance, Trust Indenture, Lease Agreement, the Master Note to be issued to the City and other related documents. However, upon issuance of such Letter of Intent, Applicant is prepared to proceed in reliance thereon. Please contact the undersigned if you have any questions or require additional information.

Respectfully submitted,

PRESBYTERIAN MANORS, INC.

A handwritten signature in black ink, appearing to read 'B. Shogren', with a horizontal line extending to the right.

Bruce H. Shogren  
President/CEO

City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** Amendment to Interlocal Cooperation Agreements (Presbyterian Manors, Inc.)(Districts I & VI)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendation:** Approve the resolution authorizing the amendment of interlocal cooperation agreements.

**Background:** Since 1990, the City of Wichita has issued refunding and improvement revenue bonds for the benefit of Presbyterian Manors, Inc. (“PMI”), a Kansas not-for-profit corporation, to finance or refinance PMI facilities located throughout Kansas. Through a series of interlocal cooperation agreements with other cities, the City of Wichita has agreed to serve as a “host” bond issuer in order to consolidate the financings of PMI facilities in Kansas. As a result of this financing arrangement, PMI relocated its corporate headquarters to Wichita, at 6525 E. Mainsgate. There is a Presbyterian Manor residential facility at 4700 W. 13<sup>th</sup> Street in Wichita.

At this time, PMI wishes to refinance its outstanding bonds (Series III, 2004 and Series III, 2007) and finance new improvements at several of its facilities throughout the state. To facilitate the financing of PMI facilities in other cities, it is necessary to amend the existing interlocal cooperation agreements.

**Analysis:** PMI, a Kansas not-for-profit corporation, and its predecessors have operated Presbyterian Manors facilities for 65 years. PMI owns and operates 16 retirement facilities in Kansas and Missouri, which have an aggregate of 1,472 licensed adult care beds and 555 additional retirement units.

The City of Wichita previously entered into interlocal cooperation agreements with certain participating cities (Arkansas City, Clay Center, Dodge City, Emporia, Fort Scott, Lawrence, Newton, Parsons, Salina, Topeka and the Unified Government of Wyandotte County/Kansas City, Kansas, collectively referred to herein as the “Participants”) to provide a legal basis for the refunding of certain outstanding revenue bonds and the financing of construction of improvements and additions to existing facilities within the jurisdictions of the Participants with bonds issued by the City of Wichita. PMI is requesting an amendment to these agreements to extend the termination date of each Interlocal Cooperation Agreement to December 31, 2054 to accommodate the new maturity date on the refunding and improvement bonds.

**Financial Considerations:** There is no financial liability of City of Wichita resulting from these agreements.

**Legal Considerations:** Amendments to the Interlocal Cooperation Agreements have been prepared by Bond Counsel. The final form of the amendments will be subject to review and approval by the City’s Law Department.

**Recommendations/Actions:** It is recommended City Council approve the resolution authorizing the execution of the amendment of the interlocal cooperation agreements and authorize necessary signatures.

**Attachments:** Resolution

**RESOLUTION NO.13-060**

**A RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE INTERLOCAL COOPERATION AGREEMENTS BETWEEN THE CITY OF WICHITA, KANSAS, AND, RESPECTIVELY, THE CITY OF ARKANSAS CITY, KANSAS, THE CITY OF CLAY CENTER, KANSAS, THE CITY OF DODGE CITY, KANSAS, THE CITY OF EMPORIA, KANSAS, THE CITY OF FORT SCOTT, KANSAS, THE CITY OF LAWRENCE, KANSAS, THE CITY OF NEWTON, KANSAS, THE CITY OF PARSONS, KANSAS, THE CITY OF SALINA, KANSAS, THE CITY OF TOPEKA, KANSAS AND THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, RELATING TO THE ISSUANCE OF HEALTH CARE FACILITIES REVENUE BONDS FOR PRESBYTERIAN MANORS, INC.**

**WHEREAS**, the City of Wichita, Kansas (the “City”), desires to promote, stimulate and develop the general economic welfare and prosperity of the City and its environs, and thereby to further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas; and

**WHEREAS**, the Kansas Interlocal Cooperation Act, K.S.A. 12-2901 *et seq.*, as amended (the “Interlocal Cooperation Act”), permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities, persons, associations and corporations on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, Presbyterian Manors, Inc., a Kansas not-for-profit corporation (the “Corporation”) with a health care facility within the boundaries of the City, previously requested that the City and certain participating cities (the City of Arkansas City, Kansas, the City of Clay Center, Kansas, the City of Dodge City, Kansas, the City of Emporia, Kansas, the City of Fort Scott, Kansas, the City of Lawrence, Kansas, the City of Newton, Kansas, the City of Parsons, Kansas, the City of Salina, Kansas, the City of Topeka, Kansas and the Unified Government of Wyandotte County/Kansas City, Kansas, collectively referred to herein as the “Participants”) cooperate with one another to facilitate the refunding of certain outstanding revenue bonds and the financing of construction of improvements and additions to existing facilities (the “Facilities”) located within the boundaries of the City and the respective Participants in order to secure to the City, the Participants and the Corporation the economic and other benefits to be derived through the orderly and efficient financing of such facilities to be leased by the City to the Corporation; and

**WHEREAS**, in furtherance of the purposes set forth above, the City and the Participants previously entered into respective Interlocal Cooperation Agreements, each authorizing the City to issue certain health care facilities improvement and/or refunding bonds, in one or more series, pursuant to K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), for the purposes set forth therein; and

**WHEREAS**, the Corporation has requested that the City and the Participants amend the respective Interlocal Cooperation Agreements between the Participants and the City to extend the termination date of each such Interlocal Cooperation Agreement to December 31, 2054; and

**WHEREAS**, pursuant to the Interlocal Cooperation Act, the City is authorized to enter into an amendment to the existing Interlocal Cooperation Agreements with the Participants to coordinate the financing of construction of improvements and additions to the Facilities and facilitate the refunding of certain outstanding revenue bonds; and

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:**

**Section 1.** The City is hereby authorized to enter into the Amendments to Interlocal Cooperation Agreement with the Participants (the “Amendments”) in substantially the form presented for review prior to adoption of this Resolution (copies of which are on file with the City Clerk), with such corrections or amendments thereto as the Mayor, after consultation with the City Attorney, may approve, which approval shall be evidenced by the Mayor’s execution thereof. The City Clerk or any Deputy or Assistant Clerk of the City is authorized and directed to attest the Mayor’s signature on the Amendments, to affix the seal of the City, if required, and to submit the Amendments to the Kansas Attorney General for approval in accordance with K.S.A. 12-2904(f).

**Section 2.** The Mayor is hereby authorized and directed to execute such documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Resolution and deliver the same for and on behalf of and as the act and deed of the Issuer in the manner provided herein and in the Interlocal Cooperation Agreement by and between the Issuer and the Participants. The City Clerk or any Deputy or Assistant Clerk of the City is hereby authorized and directed to attest the execution of such documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 3.** This Resolution shall be in full force and effect after its adoption by the Governing Body.

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**ADOPTED** by the governing body of the City of Wichita, Kansas on April 16, 2013.

(SEAL)

\_\_\_\_\_  
CARL BREWER, MAYOR

ATTEST:

\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
GARY E. REBENSTORF, DIRECTOR OF LAW

**CERTIFICATE**

I hereby certify that the above and foregoing is a true and correct copy of Resolution No. 13-\_\_\_\_ of the City adopted by the governing body on April 16, 2013, as the same appears of record in my office.

DATED: April 16, 2013.

\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK



**City of Wichita  
City Council Meeting  
April 16, 2013**

**TO:** Mayor and City Council

**SUBJECT:** Public Hearing and Issuance of Industrial Revenue Bonds (Douglas Place, LLC)  
(District I)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendations:** Close the public hearing and place the ordinance on first reading.

**Background:** On August 9, 2011, the City Council approved a two-year Letter of Intent for Industrial Revenue Bonds (IRBs) in the amount not-to-exceed \$22,000,000, and a sales tax exemption for Douglas Place, LLC. There is no property tax exemption. Douglas Place, LLC, as IRB Tenant, will sublease the property to Ambassador Hotel Master Tenant, LLC. Bond proceeds will fund the acquisition, renovation and equipping of the former Union National Bank building, located at 104 S. Broadway. The renovations are now completed and Douglas Place, LLC is requesting the issuance of IRBs at this time, in an amount not-to-exceed \$17,000,000.

**Analysis:** A development group comprised of Marketplace Properties LLC (David Burk), Summit Holdings LLC (David Wells, Kenneth Wells, Richard McCafferty, John Walker Jr., Larry Gourley) and Coury Properties LLC (Paul Coury) formed Douglas Place, LLC for the purpose of re-developing and owning the Ambassador Hotel. The hotel has been renovated into a 117-room upscale boutique hotel. The complete historic renovation of the 14-story former Union National Bank building includes a lobby and restaurant/bar on the first floor and large banquet facilities on the second floor.

**Financial Considerations:** Douglas Place, LLC agrees to pay all costs of issuing the industrial revenue bonds and agrees to pay the City's \$2,500 annual administrative service fee for as long as the bonds are outstanding. The project is eligible for sales tax exemption on all bond-financed purchases of taxable personal property, such as construction materials and hotel furnishings and equipment. The total value of the sales tax exemption is estimated to be \$703,017. Southwest National Bank will purchase the bonds.

As part of the evaluation team process, the WSU Center for Economic Development and Business Research studied the fiscal impact of the Douglas Place project on the City's General Fund, taking into account the requested incentives and the direct, indirect and induced generation of new tax revenue. The study shows a ratio of benefits to costs for the City's General Fund of 2.62 to one.

**Legal Considerations:** The attached ordinance and all bond documents have been reviewed and approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council close the public hearing, place on first reading the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Industrial Revenue Bonds in an amount not-to-exceed \$17,000,000 to Douglas Place, LLC, and authorize the necessary signatures.

**Attachment(s):** Bond Ordinance

(Published in *The Wichita Eagle*, April 26, 2013)

**ORDINANCE NO. 49-484**

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS INDUSTRIAL REVENUE BONDS, SERIES II, 2013 (DOUGLAS PLACE, LLC) (TAXABLE UNDER FEDERAL LAW), IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$17,000,000 FOR THE PURPOSE OF CONSTRUCTING AND ACQUIRING A COMMERCIAL FACILITY; AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

**WHEREAS**, the City of Wichita, Kansas (the “Issuer”), is authorized by K.S.A. 12-1740 *et seq.*, as amended (the “Act”), to acquire, construct, improve and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for such facilities, and to issue revenue bonds for the purpose of paying the costs of such facilities; and

**WHEREAS**, the Issuer has found and does find and determine that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its Industrial Revenue Bonds, Series II, 2013 (Douglas Place, LLC) (Taxable Under Federal Law), in the aggregate principal amount not to exceed \$17,000,000 (the “2013 Bonds”), for the purpose of paying the costs of constructing and acquiring a commercial facility (the “Project”) as more fully described in the Indenture and in the Lease hereinafter authorized for lease by the Issuer to Douglas Place, LLC, a Kansas limited liability company (the “Tenant”); and

**WHEREAS**, the 2013 Bonds and the interest thereon shall not be a general obligation of the Issuer, shall not be payable in any manner by taxation and shall be payable solely from the trust estate established under the Indenture, including revenues from the Lease of the Project; and

**WHEREAS**, the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of the 2013 Bonds to execute and deliver (i) a Trust Indenture dated as of April 1, 2013 (the “Indenture”), with Southwest National Bank, Wichita, Kansas, as trustee (the “Trustee”), prescribing the terms and conditions of issuing and securing the 2013 Bonds; (ii) a Lease dated as of April 1, 2013 (the “Lease”), with the Tenant in consideration of payments of Basic Rent and other payments provided for therein; (iii) a Bond Placement Agreement dated as of April 1, 2013, with the Tenant, as purchaser of the Bonds; and (iv) an Administrative Service Fee Agreement dated as of April 1, 2013, with the Tenant (collectively, the “Bond Documents”); and

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:**

**Section 1. Authority to Cause the Project to be Constructed and Acquired.** The Governing Body of the Issuer hereby declares that the Project, if in being, would promote the welfare of the City of Wichita, Kansas, and the Issuer is hereby authorized to cause the Project to be

constructed and acquired all in the manner and as more particularly described in the Indenture and the Lease hereinafter authorized.

**Section 2. Authorization of and Security for the 2013 Bonds.** The Issuer is hereby authorized and directed to issue the 2013 Bonds, to be designated “City of Wichita, Kansas, Industrial Revenue Bonds, Series II, 2013 (Douglas Place, LLC) (Taxable Under Federal Law)” in the aggregate principal amount not to exceed \$17,000,000. The 2013 Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Indenture. The 2013 Bonds shall be special limited obligations of the Issuer payable solely from the trust estate established under the Indenture, including revenues from the Lease of the Project. The 2013 Bonds shall not be general obligations of the Issuer, nor constitute a pledge of the full faith and credit of the Issuer and shall not be payable in any manner by taxation.

**Section 3. Lease of the Project.** The Issuer shall cause the Project to be leased to the Tenant pursuant to and in accordance with the provisions of the Lease in the form approved herein.

**Section 4. Execution of 2013 Bonds and Bond Documents.** The Mayor of the Issuer is hereby authorized and directed to execute the 2013 Bonds and deliver them to the Trustee for authentication on behalf of, and as the act and deed of the Issuer in the manner provided in the Indenture. The Mayor is further authorized and directed to execute and deliver the Bond Documents on behalf of, and as the act and deed of the Issuer in substantially the forms presented for review prior to final passage of this Ordinance, with such minor corrections or amendments thereto as the Mayor may approve, which approval shall be evidenced by his execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance and the Bond Documents. The City Clerk or any Deputy City Clerk of the Issuer is hereby authorized and directed to attest the execution of the 2013 Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the Issuer’s official seal.

**Section 5. Pledge of the Project and Net Revenues.** The Issuer hereby pledges the Project and the net revenues generated under the Lease to the payment of the 2013 Bonds in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the 2013 Bonds shall be deemed to have been paid within the meaning of the Indenture.

**Section 6. Further Authority.** The officers, agents and employees of the Issuer are hereby authorized and directed to take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out the provisions of this Ordinance and to carry out and perform the duties of the Issuer with respect to the 2013 Bonds and the Bond Documents as necessary to give effect to the transactions contemplated in this Ordinance and in the Bond Documents.

**Section 7. Effective Date.** This Ordinance shall take effect from and after its final passage by the Governing Body of the Issuer, signature by the Mayor and publication once in the official newspaper of the Issuer.

**PASSED** by the Governing Body of the City of Wichita, Kansas, and approved by the Mayor on April 23, 2013.

CITY OF WICHITA, KANSAS

(Seal)

By \_\_\_\_\_  
Carl Brewer, Mayor

Attest:

By \_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:

By \_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council Members  
**SUBJECT:** Public Hearing and Approval of a Façade Improvement Project - 915 West Douglas (District IV)  
**INITIATED BY:** Office of Urban Development  
**AGENDA:** New Business

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**Recommendation:** Close the public hearing and approve first reading of the maximum assessment ordinance.

**Background:** Since 2001, the City of Wichita has operated the Façade Improvement Program, which provides low-cost loans and grants to enhance the visual aesthetics of buildings located in defined areas needing revitalization, including the City's core area. The low-cost loans are funded through special assessment financing. In 2009, the Façade Improvement Program was revised to require that private funding for overall project costs be at least equal to public funding and that applicants show a financial need for public assistance in order to complete the project, based on the owner's ability to finance the project and assuming a market-based return on investment.

On April 2, 2013, the City Council accepted a petition from the owners of a building located at 915 West Douglas to create a special assessment benefit district and adopted a resolution authorizing façade improvements as part of a larger private renovation project, and setting a public hearing on the project for April 16, 2013. Adoption of a maximum assessment ordinance is needed in order to proceed with the façade improvement project.

**Analysis:** The existing project is a building in Delano that the developer plans to renovate for retail use. The \$310,000 project includes a \$240,000 renovation, including interior and exterior improvements to the building. The \$70,000 façade project will include tuck pointing, replacing the entrance with aluminum doors and windows, and building a portion of the storefront out to match the appearance of the neighborhood buildings. The Office of Urban Development has reviewed the economic (gap) analysis of the project and determined a financial need for incentives based on the current market.

State law requires a formal public hearing to levy assessments for special assessment benefit districts. By using a maximum assessment ordinance, the City levies the assessments in advance of the improvements being constructed, which protects the City from a protest petition should the building change ownership during the construction period. Once the construction is complete and final costs are known, including financing costs, the assessment ordinance will be amended to reflect the actual costs.

The Office of Urban Development has conducted a background check on the applicant. The records were reviewed by Urban Development and the Law Department. Records revealed delinquent taxes owed by a related entity of one partner. The property is leased to an unrelated entity that has tax responsibility, based on the lease. The development partner's entity is in the process of deeding the property to the lessee and staff has confirmed lessee assumes responsibility for delinquent taxes.

**Financial Considerations:** The proposed maximum assessment amount is \$90,000, based on the following uses of funds:

Façade improvement costs	\$75,809
2% City administrative fee	1,197
Financing costs	<u>12,994</u>
Maximum Assessment	\$90,000

The façade improvement costs include a contingency amount in the event of unexpected expense, to reduce the need to increase the maximum assessment. The actual amount to be assessed to the property, not to exceed \$90,000, will be based on a final statement of costs following completion of construction and will be financed with 15-year special assessment general obligation bonds. Included in the bond issue amount will be a financing contingency reserve equivalent to one year's debt service to mitigate risk and ensure the maximum assessment is not exceeded.

The building is eligible for a \$10,000 grant, based on location and size of the project. The grant will be deducted from the final statement of costs. The balance of the grant component funding allocated by the City Council for the Façade Improvement Program is \$321,000. With the approval of the \$10,000 grant for this project, \$311,000 will be available for future projects.

To mitigate the City's risk that the special assessment cannot be spread to the property because the improvements are not completed, the owner will pay the construction costs until the façade project is completed. Once complete, as evidenced by an architect's certificate of completion, the property owner will submit a single draw request for the project. This will remove any impediment based on project completion to the City's ability to issue special assessment bonds and place a special tax lien on the property. Once special assessment bonds are issued, the City's risk will be partially secured by a tax lien on the property. The maximum assessment amount is 63% of the current County appraised value of the property being improved. The maximum assessment amount of \$90,000, including financing fees and temporary interest, is 29% of the overall reconstruction costs of \$310,000.

**Legal Considerations:** State statutes provide the City Council authority to use special assessment funding for the project. A public hearing is required as part of the approval process. The actual amount to be assessed at the completion of construction may be less, but it may not exceed the amounts included in the petition, resolution and ordinance.

The attached Maximum Assessment Ordinance and Façade Easement have been approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council close the public hearing, approve the façade easement and place the maximum assessment ordinance for the 915 West Douglas facade improvements on first reading.

**Attachments:** Maximum Assessment Ordinance  
Façade Easement

## **ORDINANCE NO. 49-485**

AN ORDINANCE LEVYING AND ASSESSING MAXIMUM SPECIAL ASSESSMENTS ON CERTAIN LOTS, PIECES AND PARCELS OF LAND LIABLE FOR SUCH SPECIAL ASSESSMENTS TO PAY THE COSTS OF INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS, AS AUTHORIZED BY RESOLUTION NO. 13-058 OF THE CITY (915 WEST DOUGLAS FACADE IMPROVEMENT DISTRICT).

WHEREAS, pursuant to Resolution No. 13-058 of the City of Wichita, Kansas (the “City”) adopted on April 2, 2013, the Governing Body has authorized the creation of an improvement district and the construction of the following improvements (the “Improvements”):

*Facade Improvements to the portion of 915 West Douglas Avenue abutting public ways, including Douglas Avenue.*

WHEREAS, prior to commencement of construction of the Improvements, the City has determined the maximum amount of assessment against each lot, piece or parcel of land deemed to be benefited by the Improvements based on the approved estimate of cost of the Improvements and has held a public hearing on the proposed maximum special assessments to be levied against property in the improvement district for the cost of construction of the Improvements as required by K.S.A. 12-6a09; and

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

**SECTION 1.** Pursuant to K.S.A. 12-6a01 *et seq.*, special assessments to pay the costs of the Improvements are hereby levied and assessed against the lots, pieces and parcels of land liable therefore as described on Exhibit A to this Ordinance, which is incorporated herein by reference, and in the amounts set forth on Exhibit A following the description of each lot, piece or parcel of land; provided, however, that if the final cost of the completed Improvements is less than the maximum amount of the assessments set forth on Exhibit A, the Governing Body of the City shall adjust the assessments to reflect the cost of the completed Improvements.

**SECTION 2.** The amounts so levied and assessed shall be due and payable from and after the date of publication of this Ordinance; and the City Clerk shall notify the owners of the affected properties of the amounts of their assessments, bonds will be issued therefore and such assessments will be levied concurrently with general taxes and be payable in 15 annual installments.

**SECTION 3.** The City Clerk shall certify to the County Clerk, in the same manner and at the same time as other taxes are certified, for a period of 15 years, all of the adjusted assessments as referred to in Section 1, together with interest on such amount thereof at a rate not exceeding the maximum rate as prescribed by the laws of the state of Kansas; and such amounts shall be placed on the tax rolls and collected as other taxes are collected, the levy for each year being a

portion of the principal amount of the assessment plus one year's interest on the amount remaining unpaid.

**SECTION 4.** This Ordinance shall take effect and be in force from and after its publication once in the official City newspaper. The City Clerk is directed to file this Ordinance with the Register of Deeds of Sedgwick County, Kansas.

PASSED by the Governing Body of the City of Wichita, Kansas, and approved by the Mayor on April 23, 2013.

(Seal)

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary Rebenstorf, City Attorney



## **EXHIBIT A**

### **915 W. Douglas Improvement District**

<b>Property Subject to Assessment</b>	<b>Maximum Assessment</b>
LOT 30 & 1/2 VAC ALLEY ADJ ON E CHICAGO NOW DOUGLAS AVE. WEST WICHITA ADDITION Pin #00198195 Tax Key #D-00212	\$90,000.00

## **FACADE EASEMENT FACADE IMPROVEMENT PROGRAM**

**THIS FACADE EASEMENT** made this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between 915 Arch Partners LLC, hereinafter called Grantor and the City of Wichita, Kansas, hereinafter called Grantee:

WITNESSETH THAT,

WHEREAS, the Grantee is a municipal corporation pursuant to state law; and

WHEREAS, the Grantee is authorized pursuant to K.S.A. 12-6a01 et. seq. to make or cause to be made improvements which confer a special benefit upon a property within a definable area of the city; and,

WHEREAS, the Grantee may levy and collect special assessments upon property deemed by the governing body to be benefited by such improvement; and,

WHEREAS, the Grantee may acquire an interest in property when necessary for any of the purposes of the statute; and,

WHEREAS, the Grantee is authorized to accept easements necessary for improvements to be financed through special assessment financing pursuant to K.S.A. 12-6a01; and,

WHEREAS, the Grantor is the owner in fee simple of the improved real property consisting of a lot and building improvements located at 915 West Douglas Avenue, Wichita, Kansas; and,

WHEREAS, the Grantor has submitted a Facade Improvement Petition for special assessment financing to improve, restore and enhance the facade of the premises; and,

WHEREAS, the grant of a facade easement by the Grantor to the Grantee will assist in the improvement of the property;

NOW, THEREFORE, in consideration of the sum of ONE and NO/100 DOLLARS (\$1.00), and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey to the Grantee, its successors and assigns, a fifteen (15) year facade easement in and to the premises described herein.

The easement granted herein (which is more particularly described in Attachment "A" and which is incorporated herein by reference) shall constitute a binding servitude upon the premises and shall be deemed to run with the said premises for a period of fifteen (15) years, with said fifteen year period being contemporaneous with the period of time that the said premises are encumbered with special assessment payments related to improvements made to its facade. As a further condition of said easement, Grantor agrees to the following covenants, restrictions and obligations related to said facade:

1. Without the express written consent of the Grantee, signed by an authorized representative of the Grantee, no construction, alteration, remodeling or other action shall be undertaken or permitted to be undertaken which would affect the exterior facade improvements on the premises (including, without limitation the exterior walls, the roofs or chimneys) or which would adversely affect the structural soundness of improvements on the premises. In the event the Grantee does consent to construction, alteration, remodeling or other action which would affect the exterior facade of improvements on the premises, the Grantor agrees that such construction, alteration, remodeling or other action will conform with applicable local, state and federal standards for construction or restoration or rehabilitation of historic property. Grantor agrees on behalf of itself and any successor condominium owners association at all times to maintain the premises in good and sound state of repair and to bear the cost of all maintenance and repair of the premises.

2. The premises shall not be divided, diminished or subdivided nor shall the premises ever be devised or conveyed except that the premises may be divided into condominium units, the units may

be conveyed to buyers, and the remainder of the premises may be conveyed to a condominium owners association.

3. The premises shall only be used for a use consistent with the zoning ordinances of the City of Wichita.

4. No other structures may be constructed on the premises during the term of this facade easement without the express written permission of the Grantee, signed by an authorized representative of the Grantee.

5. No utility transmission lines, except those required by the existing structures or by structures permitted by the Grantee, may be placed on or over the premises.

6. No topographical changes shall be made or allowed on the premises without the express written permission of the Grantee, signed by an authorized representative of the Grantee.

7. Grantor agrees that representatives of the Grantee, its successors or assigns, shall be permitted at all reasonable times to inspect the premises. Inspections will normally take place on the exterior of the structures on the premises; however, Grantor agrees that representatives of the Grantee, its successors and assigns, shall be permitted to enter and inspect the structures on the premises to insure maintenance of structural soundness. Inspection of the interior of the structures will not take place more often than annually, in the absence of deterioration, and shall require prior notice to Grantor. Inspection of the interior of the structures will be made at a time mutually agreed upon by the Grantor and Grantee, its successors or assigns, and Grantor will not unreasonably withhold its consent in determining a date and time for such inspections.

8. In the event of a violation of any covenant or restriction herein, the Grantee, its successors and assigns, following no less than thirty (30) days notice to Grantor of the violation, may institute suit to enjoin such violation and to require restoration of the premises in compliance with the covenants or restrictions herein. The Grantee, its successors or assigns, shall also have available all legal and equitable remedies to enforce Grantor's obligations hereunder (following expiration of the thirty (30) day notice and cure period set forth above), and in the event Grantor is found to have violated any of its obligations following expiration of such notice and cure period, Grantor shall reimburse Grantee, its successors and assigns, for any costs or expenses incurred in connection therewith, including court costs and reasonable attorneys' fees. In addition, Grantor acknowledges that the Grantee has advanced or will advance \$10,000 in public funds to defray costs of a portion of Grantor's façade improvements, and Grantor further acknowledges that, in the event of Grantor's violation of any covenant or restriction herein contained for the preservation, maintenance or repair of the façade improvements during the term of this easement, the Grantee will not have received the social and economic development benefits expected in connection with its advance of public funds, and the resulting loss to the Grantee will be difficult to measure. In such event, the Grantor covenants to repay to the Grantee, on demand, as contractual or liquidated damages, the amount \$10,000.

9. Grantor agrees that these covenants and restrictions will be inserted by it in any subsequent deed or other legal instrument by which it divests itself of either the fee simple title or its possessory interest in the premises, or any part thereof during the term of this facade easement. Grantor agrees to give Grantee written notice of any sale or mortgage of the premises or any part thereof within a reasonable time after such sale or mortgage.

10. Grantor agrees to maintain the facades of the premises in its original condition and configuration or in a condition or configuration which is agreed to by the Grantee.

11. Nothing herein contained shall impose any obligation or liability on the Grantee for the restoration, renovation, preservation or maintenance of the facades of the premises or any part of the premises. The Grantor shall indemnify and hold harmless the Grantee from any liability for any and all claims, demands, damages, judgments, costs or expenses in connection with the restoration, renovation, preservation and maintenance of the facades of the premises or any part thereof or in connection with the failure to restore, renovate, preserve or maintain the facades of the premise or any part of the premises.

12. The Grantor shall maintain insurance on the premises in such amount and on such terms as will allow the Grantee to restore, repair or rebuild the facade of the premises in the event the facade is damaged or destroyed. In the event of damage to or destruction of the facades of the premises, the Grantor alone may determine that the facade of the premises cannot be reasonably restored, repaired or reconstructed. In such event, the Grantee shall be entitled to receive from the Grantor the greater of the following: the fair market value of the easement granted herein at the time the easement was granted or the fair market value of the easement granted herein immediately before the facade of the premises was damaged or destroyed. However, any payment to the Grantee under the terms of this paragraph shall not terminate the easement granted herein, and the terms of the easement which are still applicable to the premises shall remain in full force and effect. The provisions of this paragraph shall apply whether or not the Grantor maintains the insurance coverage required by this paragraph. In the event the Grantee receives any payment under the terms of this paragraph, the Grantee shall use such payment in a manner consistent with the purpose of this easement.

13. Grantor acknowledges that the easement granted herein gives rise to a property right, vested immediately, with fair market value that is a minimum ascertainable portion of the fair market value of the premises. Thus, if a subsequent unexpected change in the conditions surrounding the premises makes it impossible or impracticable to preserve the premises for the purposes for which the easement was granted and restrictions imposed by the easement granted herein are terminated by judicial proceedings, the Grantee, on a subsequent sale, exchange or involuntary conversion of the premises, will be entitled to a portion of the proceeds determined in accordance with the ratio that the fair market value of the easement granted herein determined on the date of this Facade Easement is executed, unless state law determines that the Grantor is entitled to full proceeds from the conversion without regard to the terms of the prior restrictions imposed by the Facade Easement. In the event the Grantee receives such proceeds from the subsequent sale, exchange or involuntary conversion of the premises, the Grantee shall use such proceeds in a manner consistent with the terms conservation/enhancement purposes of the easement.

The covenants and restrictions imposed by the aforesaid, shall not only be binding upon the Grantor, but also upon its heirs, assigns, and all other successors in interest, and shall continue as a servitude running for the fifteen year term of the Facade Easement with the land and shall survive the Grantor and any termination of the Grantor's existence. All rights reserved herein to the Grantee shall run for the benefit of and be exercised by its successors, assigns, or by its designee duly authorized.

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

---

[SIGNATURES FOLLOW ON PAGES BELOW]

**GRANTOR:**  
915 Arch Partners, LLC

\_\_\_\_\_  
Ted Timsah, Managing Member

\_\_\_\_\_  
(Date)

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ )

Signed or attested before me on \_\_\_\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Date)

(Seal)

My appointment expires: \_\_\_\_\_

**GRANTEE:**

By Direction of the City Council

\_\_\_\_\_  
Carl Brewer,  
Mayor

\_\_\_\_\_  
(Date)

**ATTEST:**

\_\_\_\_\_  
Karen Sublett,  
City Clerk

\_\_\_\_\_  
(Date)

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ )

\_\_\_\_\_  
(Date)

Signed or attested before me on  
\_\_\_\_\_ by  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public

(Seal)

My appointment expires:  
\_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Gary E. Rebenstorf,  
City Attorney and Director of Law of  
the City of Wichita

\_\_\_\_\_  
(Date)

## **EXHIBIT A**

### **Project Subject to Easement**

An easement for construction and preservation of façade improvements on the north façade of that certain building currently addressed at 915 W. Douglas in the City of Wichita, Kansas, abutting public ways on Douglas Avenue, in such City, together with easements for ingress, egress and access to the said facades as necessary for such purposes, all on that property described as:

LOT 30 & 1/2 VAC ALLEY ADJ ON E CHICAGO NOW DOUGLAS AVE. WEST WICHITA ADDITION  
Pin #00198195  
Tax Key #D-00212

**City of Wichita  
City Council Meeting  
April 16, 2013**

**TO:** Mayor and City Council

**SUBJECT:** Public Hearing and Adoption of Southfork Phase A Redevelopment Project Plan (District III)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

---

**Recommendation:** Close the public hearing and approve the first reading of the ordinance.

**Background:** On April 17, 2012, the City Council adopted an ordinance establishing the Southfork Redevelopment District in the area near the intersection of 47<sup>th</sup> Street South and I-35 and an adjacent 22 acres at Broadway and Custy for the purpose of providing tax increment financing (TIF) to pay a portion of the costs of a commercial development project in that area. The action taken by the City Council established 2012 as the base year, from which the increase in property tax revenues (the tax increment) will be measured.

On March 5, 2013, the City Council adopted a resolution stating it is considering the adoption of the Redevelopment Project Plan and directing the City Clerk to give notice that a public hearing would be held on the matter on April 16, 2013. With the adoption of the redevelopment project plan, the County Treasurer will be authorized and directed to begin capturing the tax increment and distributing the money to the City to pay project costs.

**Analysis:** K.S.A. 12-1770 *et seq.* sets forth the procedures and requirements for the establishment of a TIF district and the capture of TIF revenue. In order for the County Treasurer to be authorized to set aside the increment of increased property tax revenues collected in the district, to pay for eligible redevelopment costs, the City must adopt a redevelopment project plan that describes the district and the projects being financed with the TIF, and also establishes the financial feasibility of the TIF to finance the public improvements. The statute also directs the City to prepare the redevelopment project plan "in consultation with the planning commission of the city." On February 21, 2013, the Wichita-Sedgwick County Metropolitan Area Planning Commission met to consider the Southfork Phase A Project Plan and found that the Plan is consistent with the general comprehensive plan for development of the City.

**PROJECT PLAN**

The proposed Southfork Development Project is a multi-phase mixed use commercial development of approximately 72 acres. The overall project has been subdivided for planning purposes into three phases, designated as Phase A, Phase B and Phase C. Phase A will commence first but other phases may start at any time in any order, depending on market demand. It is anticipated that uses for future phases will include big box, strip center and free standing retail along with restaurants, hotels, entertainment, medical services and office space.

The Southfork Phase "A" Project will include the north portion of the 50-acre site adjacent to the Kansas Turnpike and fronting on 47<sup>th</sup> Street. The project area is subdivided into 6-8 outparcel pad sites along the Turnpike and 47<sup>th</sup> Street which will consist of tracts suitable for a multi-tenant retail center and hotel, and out-parcel pad sites suitable for restaurants, branch banks and highway-related commercial uses.



Sitework:

The developer intends to petition the City for improvements to be installed and financed through Special Assessments. Improvements include sanitary sewer, water, paving and drainage.

Drainage:

The site will include significant drainage work due to a majority of the property being within the 100-year floodplain. Drainage work will include compacted fill to raise the property above the flood plain.

USE OF TAX INCREMENT FINANCING

The public infrastructure improvements will be financed with special assessments paid by property owners, which would later be reimbursed on a pay-as-you-go basis with tax increment revenue, as available. Upon adoption of the redevelopment project plan the City will have established its authority under state law to reimburse the developer, on a pay-as-you-go basis, for the TIF-funded improvements. The TIF-funded improvements consist of the following:

- **Phase A Public Improvements** – The City will undertake the construction of the public improvements, financed through special assessment bonds, at an estimated cost of ~~\$4,785,000~~ **\$4,852,081**.
  - Sanitary Sewer \$ 483,000 **185,000**
  - Water 452,000 **212,081**
  - Paving 2,500,000
  - Drainage ~~1,950,000~~ **1,955,000**
  - Total ~~\$ 4,785,000~~ **4,852,081**

The Financial Feasibility Study contained in the Redevelopment Project Plan examines the County's assessed valuation of the property located within the Southfork Redevelopment District, with respect to the value of the property in the base year (2012) to the year in which planned redevelopment projects will be fully reflected in the County's database of property values. The following table summarizes the revenue side of the analysis:

	2012 Base Year	2019 Projected
Appraised Value	\$588,420	\$26,477,036
Assessed Value	\$78,051	\$6,616,259
Captured Value	\$0	\$6,541,208
2012 Mill Levy*	99.102	99.102
Annual Tax Increment	\$0	\$479,386
Total Tax Increment Collected (2033)	\$0	\$11,332,627

\*Aggregate mill levy available for TIF excludes the 20-mill statewide education levy.

The analysis assumes that only those projects which are currently planned will be constructed, that assessed property values in the district will grow over time, and that the 2012 City/County/School District mill levy will not increase or decrease. The analysis shows that the stream of projected tax increment revenues are sufficient to reimburse the payments on ~~\$4,785,000~~ **\$4,852,081** of special assessment bond issues.

**Financial Considerations:** The projects funded with tax increment financing will be financed with Special Assessment Bonds which will be repaid on a pay-as-you-go basis as TIF revenue is available.

**Legal Considerations:** The Law Department has reviewed and approved as to form the attached ordinance, which is required for the adoption of a redevelopment project plan under the state tax increment financing statutes. The notice for a public hearing on the City's intent to adopt the redevelopment plan has been given pursuant to law. In order to adopt the redevelopment plan, the ordinance must be approved by a two-thirds majority.

**Recommendations/Action:** It is recommended that the City Council close the public hearing and approve first reading of the ordinance adopting Southfork Phase A Project Plan.

**Attachments:**

Southfork Phase A Project Plan

Ordinance adopting the TIF Project Plan

**ORDINANCE NO. 49-490**

**AN ORDINANCE ADOPTING A PROJECT PLAN  
FOR THE SOUTHFORK PHASE A PROJECT  
IN THE SOUTHFORK REDEVELOPMENT DISTRICT**

**WHEREAS**, by Ordinance No. 49-260 adopted April 17, 2012, the City of Wichita established a redevelopment district pursuant to K.S.A. 12-1770 et. seq., as amended, known as the Southfork Redevelopment District; and

**WHEREAS**, the City has prepared a Project Plan for the Southfork Phase A Project located within the Southfork Redevelopment District, and has given notice for said Project in accordance with K.S.A. 12-1772; and

**WHEREAS**, the Wichita Sedgwick County Metropolitan Area Planning Commission in action on February 21, 2013, has found that the Southfork Phase A Project Plan is consistent with the comprehensive general plan for the development of the community; and

**WHEREAS**, the Governing Body of the City of Wichita, Kansas, by Resolution number R-13-044 adopted March 5, 2013, set a public hearing to consider the adoption of the Redevelopment Project Plan on the 16th day of April, 2013, at 9:00 a.m. or thereafter, in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas; and

**WHEREAS**, the Governing Body is authorized following the public hearing to adopt the Redevelopment Project Plan by Ordinance passed upon a two-thirds vote.

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS:**

1. The Southfork Phase A Project Plan, including the feasibility study, district plan, maps and boundary descriptions, and descriptions of the public improvement projects, is on file in the Office of the City Clerk, City Hall, 13<sup>th</sup> Floor, 455 N. Main, Wichita, Kansas, and is incorporated by reference as though fully set forth herein. Said Project Plan is hereby adopted as the Project Plan A for the Southfork Redevelopment District.

2. This Ordinance shall be in force and effect from and after its passage, approval, and publication once in the official City paper.

**ADOPTED AND PASSED BY THE GOVERNING BODY**, not less than two-thirds (2/3) of the members elect voting in favor thereof, this 23<sup>rd</sup> day of April, 2013.

---

Carl Brewer, Mayor

ATTEST:

---

Karen Sublett, City Clerk

APPROVED AS TO FORM:

---

Gary E. Rebenstorf, City Attorney

**City of Wichita**

**Southfork Redevelopment District**

**Southfork Phase A**  
**Project Plan**

**March 5, 2013**

**Prepared by City of Wichita**  
**Office of Urban Development**

## **I N D E X**

1. Comprehensive Financial Feasibility Study
2. Redevelopment District Plan
3. Map and Legal Description of Property to be Redeveloped
4. Relocation Assistance Plan
5. Description of Proposed Redevelopment Project
6. Development Agreement
7. City Council Ordinances and Resolutions
8. Metropolitan Area Planning Commission Resolution

*Comprehensive Financing Feasibility Study for the  
Southfork Phase A Project  
within the  
Southfork Redevelopment District  
City of Wichita, Kansas*

## Table of Contents

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	<u>Page (s)</u>
OVERVIEW.....	1-2
GENERAL DESCRIPTION OF TAX INCREMENT .....	3
PROJECT DESCRIPTION .....	3
PROJECTED REVENUE (BENEFITS) .....	4-5
PROJECTED EXPENDITURES (COSTS) .....	5
CONCLUSIONS .....	5
Map of the Redevelopment District and Project Area.....	EXHIBIT I
Assumptions Report .....	EXHIBIT II
Projected Tax Increment Report .....	EXHIBIT III
Projected Bond Cash Flow Report .....	EXHIBIT IV



## Overview

Sections 12-1770 through 12-1780d of the Kansas Statutes (“the Act”) provide a means for cities to finance all or a portion of public infrastructure and redevelopment costs with incremental real estate and sales taxes. The purpose of the Act is to “promote, stimulate and develop the general and economic welfare of the State of Kansas and its communities, and to assist in the development and redevelopment of blighted areas and deteriorating areas which are not yet blighted, but may be so in the future, located within cities...”.

A city may exercise the powers conferred under the Act provided that the governing body of the city has adopted a resolution finding that the specific area sought to be developed or redeveloped is a blighted area, a conservation area or was designated an enterprise zone prior to July 1, 1992. In addition, the city must find that the conservation, development or redevelopment of such an area is necessary to promote the general and economic welfare of the city.

One or more redevelopment projects may be undertaken within the District. Kansas Statutes require projects to be completed within 20 years from transmittal of the redevelopment project plan pursuant to K.S.A. 12-1776, with the exception of environmental investigation and remediation projects which must be completed within 20 years from the date the City enters into a consent decree with the Kansas Department of Health and Environment or the U.S. Environmental Protection Agency, unless the County and School District have expressly consented to a 10-year extension of the term.

For each redevelopment project undertaken within the District, a redevelopment project plan (“the Project Plan”) must be prepared in consultation with the City Planning Commission. The Project Plan must include the following:

1. A summary or copy of the Comprehensive Financial Feasibility Study.
2. A reference to the statutorily required district plan for the District.
3. A description and map of the area to be redeveloped (“the Project”).
4. The Relocation Assistance Plan (if applicable).
5. A detailed description of all buildings and facilities proposed to be constructed or improved.
6. Any other information the City deems necessary to advise the general public of the intent of the Project Plan.

The Comprehensive Financial Feasibility Study (this document) must show that the benefits derived from the specified redevelopment project will exceed the costs, and that the income therefrom will be sufficient to pay for the applicable project costs. Benefits are determined to be the aggregate revenues of the redevelopment project including increment income, assessment income, interest income, private party contributions and any other available funding sources. Costs are determined to be the total of eligible project expenditures as defined by K.S.A. 12-1770a, including the payment of principal and interest of debt used to finance the redevelopment project.

Pursuant to all the provisions of the Act, The City of Wichita has, by Ordinance No. 49-260 dated April 17, 2012, found a portion of the City was a blighted area in that a majority of the property in the district has been identified by a Kansas licensed professional engineer and the United States federal emergency management agency as existing in the 100 year flood-plain. With the adoption of Ordinance No. 49-260, the City established and designated such area as the Southfork Redevelopment District (“the District”).

The City is currently considering the adoption of a Project Plan for the proposed Southfork Phase A Project (“the Project”) within the designated Southfork Redevelopment District. The proposed Southfork Development Project is a multi-phase mixed-use commercial development of approximately 72 acres of vacant ground generally located south of 47<sup>th</sup> Street South, west of the Kansas Turnpike and east of Broadway Avenue. The overall project has been subdivided for planning purposes into three phases, designated Phase A, Phase B and Phase C, in which Phase A will commence first but other phases may start at any time in any order depending on market demand. It is anticipated that uses will include big box, strip center and free standing retail along with restaurants, hotels, entertainment, medical services and office space.

The City will provide public funding, including but not limited to, special assessment and tax increment financing to finance the costs of various public infrastructure and improvements. The City will enter into a development agreement with Southfork Investment L.L.C. to develop, own and operate the Project.

## **General Description of Tax Increment**

*Property tax increment financing* involves the creation of an increment (increase over a base value) in the real estate taxes that are generated from a defined geographic area of a community. Upon establishment of a redevelopment district, the total assessed value of all taxable real estate within the district for that year is determined. This valuation is referred to as the district's "Original Assessed Value." Property taxes attributable to the district's Original Assessed Value are annually collected and distributed by the county treasurer to the appropriate city, county, school district and all other applicable taxing jurisdictions in the same manner as other property taxes.

As new development occurs within the redevelopment district, the total assessed value of the district, in any given year, will normally exceed its Original Assessed Value. Property taxes generated by applying the sum of the property tax rates of all applicable taxing jurisdictions to the incremental increase in assessed value (over and above the Original Assessed Valuation) is referred to as the "property tax increment". All property tax increment is collected by the County and distributed to the City to be deposited in a special tax increment fund.

*Sales tax increment financing* involves the creation of an increment (increase over a base value) in the local sales taxes that are generated from a defined geographic area of a community. Upon establishment of a redevelopment district, a base value of local sales tax collections within the district is determined. As new commercial development occurs within the redevelopment district, sales tax collections are expected to increase above the base value. Pursuant to city law governing the use of local sales tax revenue, the City does not intend to collect incremental sales tax revenues as "sales tax increment".

Tax increment funds may only be used to pay for certain statutorily-defined eligible project costs, including principal and interest on debt issued, in whole or in part, to finance eligible project costs within the redevelopment district. Such financing includes notes, special obligation bonds, full faith and credit tax increment bonds, other debt instruments and pay-as-you-go. The City intends to finance eligible infrastructure improvements within the district through special assessment financing. The City will reimburse the developer, through pay-as-you-go financing, for annual special assessment payments paid by the developer.

## **Project Description**

Phase A of the Southfork Development Project will include the north portion of the 50-acre site located adjacent to the Kansas Turnpike and fronting on 47<sup>th</sup> Street. The Phase A Project Area, depicted on the map in Section 3 of this Project Plan, is subdivided into 6-8 outparcel pad sites along the Turnpike and 47<sup>th</sup> Street suitable for restaurants, branch banks and highway-related commercial uses. Larger interior tracts are suitable for multi-tenant retail and hotel use. The developer intends to petition the City for improvements to be installed and financed through Special Assessments. Improvements include sanitary sewer, water, paving and drainage.

## Projected Revenues (Benefits) Captured Assessed Value

It is the City's intention to use the property tax increment generated by the District to reimburse the developer, on a pay-as-you-go basis, for debt service on special assessment general obligation bonds issued by the City and assessed against the Project property to finance eligible infrastructure improvements within the Project. The property tax increment is based on the District's increase in assessed value over its Original Assessed Value. The increase in value is expected to be recorded in January in the years 2015- 2019 and is referred to as the Captured Assessed Value.

The Total Assessed Value for the Project Area as of January 1, 2019 is estimated to be \$6,619,259. The Original Assessed Value of the Redevelopment District, as assessed in January 2012 for taxes payable in 2012-2013, is \$78,051, according to data provided by the City of Wichita Geographic Information Service Office. Therefore, the Captured Assessed Value of the TIF District as of January 1, 2019 is \$6,541,208.

For the purpose of this analysis, it is assumed that the Total Assessed Value of the District will increase during the life of the project period at the annual inflation rate of 2%.

## Property Tax Rates

In order to determine the amount of tax increment generated by the District in any given year, the Captured Assessed Value of the District must be multiplied by the sum of the tax rates for all *applicable* taxing jurisdictions for that year. For taxes levied in 2012 and payable in 2013, the applicable rate is 99.102 mills as shown below. The State of Kansas rate of 1.5 mills and the statewide education levy of 20 mills are not applicable to TIF and have been omitted from the following total:

<u>Jurisdiction</u>	<u>Mill Rate</u> <u>(2012)</u>
City of Wichita	32.471
Sedgwick County	29.447
USD No. 259	37.184
 TIF-Applicable Mill Rate	 99.102

## Projected Property Tax Increment and Other Project Revenue

The projected property tax increment generated by the District is shown in column 8 of Exhibit III. Such projections are based on captured assessed values derived from captured assessed valuations and tax rates as previously discussed. It is assumed that Project construction will begin in 2014 and be completed before the end of 2018, and therefor achieve full valuation by January 1, 2019. It is estimated that in 2019 the property tax increment will be \$479,386.

The City and Sedgwick County have committed to an agreement for funding TIF projects in the Southfork Redevelopment District. Under the terms of the District Plan, TIF revenues used to

pay for eligible costs shall not exceed \$16,500,000 including interest on bonds. The Phase A Project is estimated to cost \$4,852,081.

All tax increment shall be allocated and paid by the Sedgwick County Treasurer to the City Treasurer in the same manner and at the same time as normal property taxes. All such incremental taxes must be deposited in a special fund of the City for the payment of eligible redevelopment costs.

### **Projected Expenditures (Costs)**

A projected budget for the eligible project costs in the Project Area is listed below.

Uses (Special Assessment)	
Sanitary Sewer	\$185,000
Water	212,081
Paving	2,500,000
Drainage	<u>1,955,000</u>
	\$4,852,081
Sources	
TIF Revenues	\$ <u>11,332,627</u>
	\$ 11,332,667
Surplus TIF	\$6,480,546

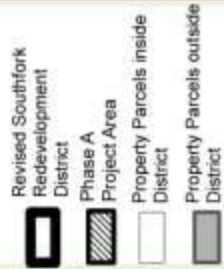
All eligible project costs will be financed with special assessment general obligation bonds issued by the City. TIF revenues will be used to reimburse annual special assessment payments paid. Exhibit IV illustrates a \$4,852,081 tax-exempt general obligation bond issue sold in 2015.

### **Conclusions**

Kansas Statutes require that the Comprehensive Financial Feasibility Study must demonstrate that the benefits derived from the Project will exceed the costs, and that the income therefrom will be sufficient to pay for all eligible project costs. As previously discussed, Exhibit III illustrates the projections of tax increment through the year 2033. TIF revenue will be used on a pay-as-you-go basis, no TIF bonds will be used to finance eligible expenses. Projected net tax increment revenue is available to reimburse special assessment payments made on general obligation bonds issued to finance eligible project costs designated for such financing.

Exhibit IV (Projected Bond Cash Flow Report) illustrates that projected tax increment from the District will be sufficient to pay for all eligible project costs including the projected debt service on general obligation bonds issued to finance such costs. As such, this report demonstrates that the revenues (benefits) of the District and Project Area exceed the expenditures (costs).

# **Revised Southfork Phase A Project Area Map** City of Wichita, Kansas



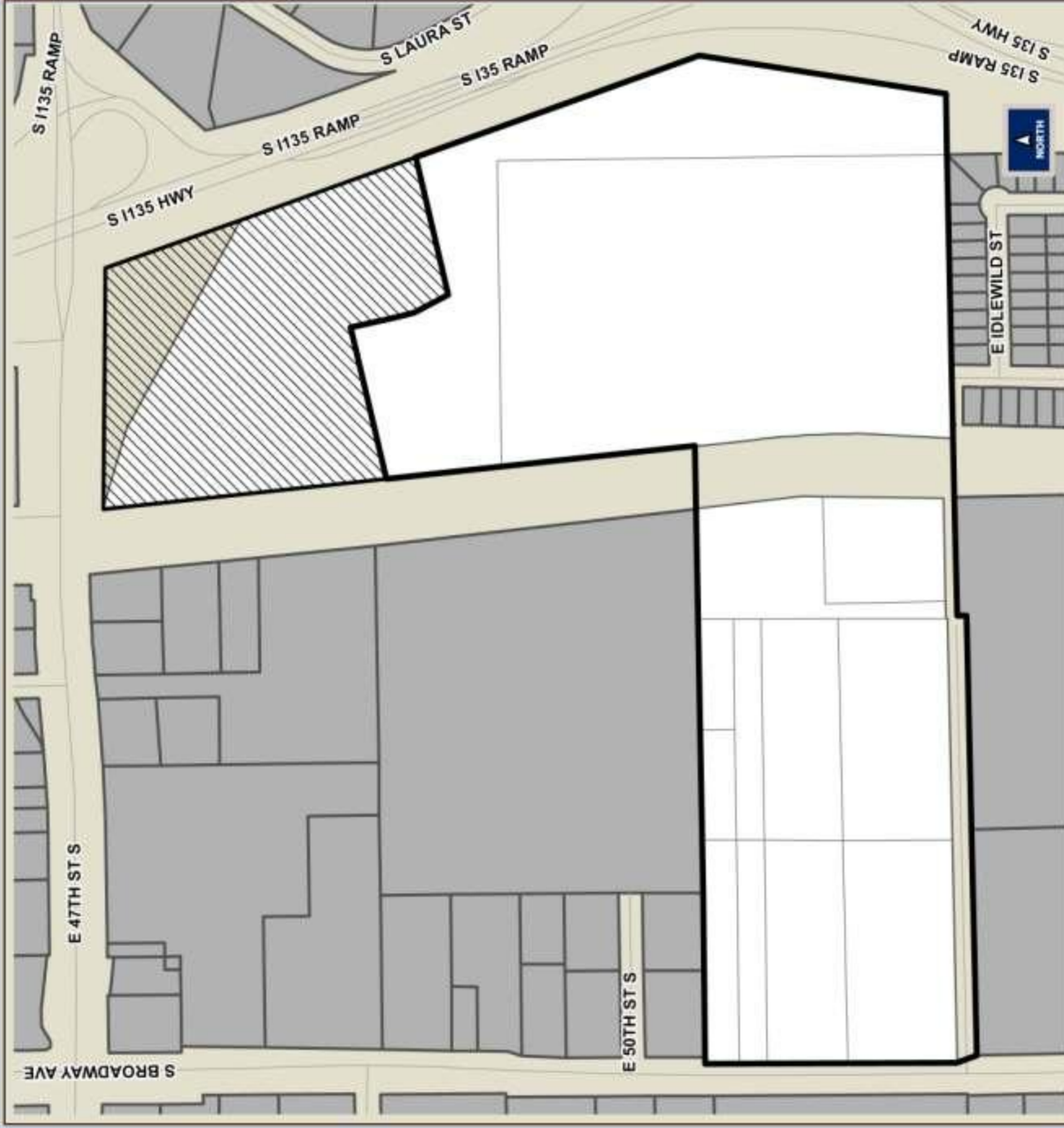
Software: ArcGIS 9.3.1  
Hardware: Dell Xeon  
Printer: HP 5000 Plotter

Map Data Source:  
Property Parcels  
provided by  
Sedgewick County GIS

Road Centerlines  
provided by  
City of Wichita

Thursday, February 7, 2013, 2:08:44 PM  
K:\gisdata\Projects\Southfork\Southfork\Southfork\_Phase A.mxd

It is acknowledged that while the City of Wichita uses the Center for Geographic Information Systems, Department of Information Technology, and the City of Wichita's GIS Department, the City of Wichita is not responsible for the accuracy of the data used in this map. The Data Owner is the City of Wichita.



## Assumptions Report

City of Wichita, Kansas  
Southfork Redevelopment District  
Southfork Phase A Project

Description of Project Area	See Map (Exhibit I)
Original Appraised Value (1/1/12)	\$588,420
Original Assessed Value (1/1/12)	78,051
2019 Appraised Value (1/1/19)	\$26,477,036
2019 Assessed Value (1/1/19)	\$ 6,619,259

<u>2012 Mill Rates (2013 Pay)</u>	<u>Total</u>	<u>TIF Applicable</u>
City of Wichita	32.471	32.471
Sedgwick County	29.447	29.447
USD No. 259	57.184	37.184
State of Kansas	1.500	NA
Total	120.602	99.102

Property Value Inflation Rate	2%
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Projected Tax Increment Report
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City of Wichita, Kansas  
Southfork Redevelopment District  
Southfork Phase A Project

Levy & Appraised Year (1)	Year Taxes Distributed (2)	Total Assessed Value (3)	Original Assessed Value (4)	Captured Assessed Value (5)	Mill Rate (6)	Tax Increment Collected (a) (7)	TIF Revenue Available for Debt Service (8)
2013	2014	78,051	78,051	-	99.102	-	-
2014	2015	161,577	78,051	83,527	99.102	8,278	8,278
2015	2016	404,845	78,051	326,795	99.102	32,386	32,386
2016	2017	404,845	78,051	326,795	99.102	32,386	32,386
2017	2018	1,646,207	78,051	1,568,156	99.102	155,407	155,407
2018	2019	2,645,719	78,051	2,567,669	99.102	254,461	254,461
2019	2020	4,915,345	78,051	4,837,295	99.102	479,386	479,386
2020	2021	6,619,259	78,051	6,541,209	99.102	648,247	648,247
2021	2022	6,751,644	78,051	6,673,594	99.102	661,366	661,366
2022	2023	6,886,677	78,051	6,808,627	99.102	674,749	674,749
2023	2024	7,024,411	78,051	6,946,360	99.102	688,398	688,398
2024	2025	7,164,899	78,051	7,086,848	99.102	702,321	702,321
2025	2026	7,308,197	78,051	7,230,146	99.102	716,522	716,522
2026	2027	7,454,361	78,051	7,376,310	99.102	731,007	731,007
2027	2028	7,603,448	78,051	7,525,398	99.102	745,782	745,782
2028	2029	7,755,517	78,051	7,677,466	99.102	760,852	760,852
2029	2030	7,910,627	78,051	7,832,577	99.102	776,224	776,224
2030	2031	8,068,840	78,051	7,990,789	99.102	791,903	791,903
2031	2032	8,230,217	78,051	8,152,166	99.102	807,896	807,896
2032	2033	8,394,821	78,051	8,316,770	99.102	824,209	824,209
2033	2034	8,562,717	78,051	8,484,667	99.102	840,847	840,847

EXHIBIT III



Projected Bond Cash Flow Report
---------------------------------

City of Wichita, Kansas  
Southfork Redevelopment District  
Southfork Phase A Project

Annual Period Ending (1)	Principal (2)	S.A. Interest Rate (3)	Interest (4)	P&I (5)	Net Tax Increment (7)	Annual Balance (8)	Cumulative Balance (9)
9/1/2013		5.00%	-	-	-	-	-
9/1/2014		5.00%	-	-	8,278	8,278	8,278
9/1/2015		5.00%	-	-	32,386	32,386	40,664
9/1/2016	224,857	5.00%	242,604	467,461	32,386	(435,075)	(394,411)
9/1/2017	236,099	5.00%	231,361	467,461	155,407	(312,053)	(706,464)
9/1/2018	247,904	5.00%	219,556	467,461	254,461	(212,999)	(919,464)
9/1/2019	260,300	5.00%	207,161	467,461	479,386	11,925	(907,538)
9/1/2020	273,315	5.00%	194,146	467,461	648,247	180,786	(726,752)
9/1/2021	286,980	5.00%	180,480	467,461	661,366	193,906	(532,846)
9/1/2022	301,329	5.00%	166,131	467,461	674,749	207,288	(325,558)
9/1/2023	316,396	5.00%	151,065	467,461	688,398	220,938	(104,621)
9/1/2024	332,216	5.00%	135,245	467,461	702,321	234,860	130,239
9/1/2025	348,826	5.00%	118,634	467,461	716,522	249,061	379,301
9/1/2026	366,268	5.00%	101,193	467,461	731,007	263,547	642,847
9/1/2027	384,581	5.00%	82,880	467,461	745,782	278,321	921,169
9/1/2028	403,810	5.00%	63,651	467,461	760,852	293,392	1,214,560
9/1/2029	424,001	5.00%	43,460	467,461	776,224	308,763	1,523,324
9/1/2030	445,201	5.00%	22,260	467,461	791,903	324,443	1,847,766
9/1/2031		5.00%	-	-	807,896	807,896	2,655,662
9/1/2032		5.00%	-	-	824,209	824,209	3,479,871
9/1/2033		5.00%	-	-	840,847	840,847	4,320,719
	4,852,081		2,159,828	7,011,909	11,332,627	4,320,719	

# District Plan

# **DISTRICT PLAN FOR THE REDEVELOPMENT OF THE SOUTHFORK REDEVELOPMENT DISTRICT THROUGH TAX INCREMENT FINANCING**

**February 14, 2012**

## **SECTION 1: PURPOSE**

A district plan is required for inclusion in the establishment of a redevelopment district under K.S.A. 12-1771. The district plan is a preliminary plan that identifies proposed redevelopment project areas within the district, and describes in a general manner the buildings, facilities and improvements to be constructed or improved.

## **SECTION 2: DESCRIPTION OF TAX INCREMENT INCOME**

Projects financed through tax increment financing typically involve the creation of an “increment” in real estate property tax income. The increment is generated by segregating the assessed values of real property located within a defined geographic area such that a portion of the resulting property taxes flow to the City to fund projects in the redevelopment district, and the remaining portion flows to all remaining taxing jurisdictions. The portion of property taxes flowing to the City is determined by the increase in the assessed value of the properties within the redevelopment district as a result of the new development occurring within the same area. When the current aggregate property tax rates of all taxing jurisdictions are applied to this increase in assessed property value from new development, increment income is generated. Public improvements within the district and other qualified expenditures are funded by the City and repaid over a specified period of time with this increment income. The property taxes attributable to the assessed value existing prior to redevelopment, the “original valuation,” continue to flow to all taxing jurisdictions just as they did prior to redevelopment. This condition continues for the duration of the established district, as defined by statute, or until all eligible project costs are funded, whichever is of shorter duration.

## **SECTION 3: DESCRIPTION OF THE DISTRICT BOUNDARIES**

The property within the proposed district is generally located southwest of the intersection of 47<sup>th</sup> Street South and I-135; it includes approximately 50 acres bounded between I-135 and a drainage canal and approximately 22 acres bounded by Broadway on the west and the drainage canal on the east, in Wichita, Sedgwick County, Kansas; and including all street rights of way within such described areas. The legal description of the proposed district is attached hereto and incorporated herein as Exhibit A.

## **SECTION 4: BUILDINGS AND FACILITIES**

The proposed district is located within the South Wichita/Haysville Area Plan. The Plan identifies and recommends a variety of land uses and infrastructure improvements to influence and guide the redevelopment of the area that is expected as a result of the infrastructure improvements to the I-135/47<sup>th</sup> Street interchange.

The proposed redevelopment district is an area that meets the criteria for designation as a “blighted area” as defined by state law governing the establishment and financing of redevelopment districts. Property within a blighted area is legally eligible for establishment of a redevelopment district.

Under the state statutes (K.S.A. 12-1770, et. seq.) an “eligible area” for tax increment financing may include any area defined as a blighted area. The statutory definition of “blighted area” includes any area in which a majority of the property lies within the 100-year floodplain (KSA 12-1770(c)(3)). It has been determined that the majority of the proposed Project Area property lies within the 100-year floodplain following an engineer’s review of the flood plain map.

## **SECTION 5: REDEVELOPMENT AND PROJECT AREAS**

It is anticipated that all property within district will be redeveloped in multiple phases and each phase will be designated as a separate “project area” under a separate project plan, which must be adopted by the City Council by a 2/3 majority vote for each phase before the expenditure of any tax increment financing funds. The Phasing of the project areas is notionally depicted in Exhibit B attached hereto. The plans for redevelopment of the district generally call for development of all 72 acres into a mixed use development of approximately 4 outparcels along 47<sup>th</sup> street, approximately 1,000,000 square feet of retail space, a hotel and office space on the east side of the development and a medical park on the west 22 acres portion of the development. ***The project plans and development agreements for each phase shall require that all property in the project areas, excluding drainage structures, easements and reserves, will be raised above the 100-year flood plain.***

Tax increment financing will be used on a pay-as-you-go basis to reimburse the cost of site preparation, as well as on public infrastructure improvements, such as streetscape, public parking, utility extensions, landscaping, and public plazas. Tax increment financing may not be used to pay for construction of any buildings owned by or leased to a private, nongovernmental entity. ***TIF revenues used to pay for eligible costs shall not exceed \$16,500,000 including interest on city bonds. Any tax increment revenue not needed to pay such costs, including reimbursement of past special assessments paid for such improvements, shall be used to retire outstanding bond debt in order to accelerate termination of the Redevelopment District.***

## **SECTION 6: CONCLUSION**

After the establishment of the redevelopment district, any redevelopment projects to be funded with tax increment financing will be presented to the Governing Body for approval through the adoption of Redevelopment Project Plans. Each Project Plan will identify the specific project area located within the established tax increment financing district and will include detailed descriptions of the projects as well as a financial feasibility study showing that the economic benefits out-weigh the costs. Each Project Plan must be reviewed by the Metropolitan Planning Commission and submitted to a public hearing following further notification of property owners and occupants, before it can be adopted by a two-thirds majority vote of the Governing Body. Only then can tax increment income be spent on the redevelopment projects.

**EXHIBIT A**  
**SOUTHFORK TIF LEGAL DESCRIPTION**

A tract of land being located in Sections 21 and 28, Township 28 South, Range 1 East, of the 6th Principal Meridian, Sedgwick County, Kansas, being more particularly described as follows:

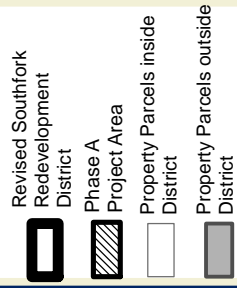
Commencing at the Northwest corner of the Northwest 1/4 of said Section 21; thence S89°31'13"E, on an assumed bearing for a distance of 1626.43 feet to the point of intersection with the East line of the Riverside Drainage District Easement as recorded in Deed Book 432 at Page 162; thence S6°12'07"E along the East line of said Riverside Drainage District Easement for a distance of 156.28 feet to the Point of Beginning, said point being 155.50 feet South of the North line of the NW 1/4; thence N89°31'13"E parallel with the North line of said NW 1/4 for a distance of 653.73 feet to a point; thence S19°28'47"E for a distance of 393.37 feet to a point on the Kansas Department of Transportation right-of-way as described in the deed, Book 1351, Page 253; thence S6°26'53"E for a distance of 129.68 feet; thence S19°28'47"E, for a distance of 1465.35 feet to a point on the right-of-way line of the Kansas Turnpike Authority as described in Condemnation Case A-55279; thence along said Kansas Turnpike Authority right-of-way line S8°42'58"W for a distance of 579.10 feet to a point on the South line of the NE 1/4 of Section 21, Township 28 South, Range 1 East; thence S88°50'51"W along the South line of said NE 1/4 for a distance of 176.00 feet to the Southwest corner of said NE 1/4; thence S88°50'53"W along the South line of the NW 1/4 of Section 21, Township 28 South, Range 1 East for a distance of 792.71 feet to a point on the East line of the Riverside Drainage Easement as recorded in Deed Book 432 at Page 162; thence South on the East right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the South line of said Section 21; thence continuing Southeasterly on the East right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the East line of the Northwest Quarter Section of said Section 28; thence continuing Southeasterly on the East right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the East right-of-way line of the Kansas Turnpike Authority; thence South on the East right-of-way line of said Kansas Turnpike Authority to a point of intersection with the West right-of-way line of said Riverside Drainage Canal Easement; thence Northwesterly on said West right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the East line the Northwest Quarter Section of said Section 28; thence Northwesterly on said West right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the South line of said Section 21; thence North on said West right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the South right-of-way line of Custy Street; thence West on the said South line of Custy Street to the East right-of-way line of U.S. 81 (Broadway); thence South on the East right-of-way line of U.S.81 to a point of intersection with the South line of Colonial Heights, Wichita, Sedgwick County, Kansas; thence West at a perpendicular angle to a point of intersection with the West right-of-way line of said U.S.81; thence North on the West right-of-way line of said U.S.81 to a point of intersection with the southerly most North line extended of Kmart Plaza South, an Addition to Wichita, Sedgwick County, Kansas; thence East on the southerly most North line extended of said Kmart Plaza South to a point of intersection with the East right-of-way line of said U.S. 81; thence South on said East right-of-way line of U.S. 81 to a point of intersection with the South line of Florence Addition to Wichita, Sedgwick County, Kansas extended; thence East on the South line of Florence Addition extended to the Southwest corner of said Florence Addition; thence East on said South line of said Florence Addition to the Southeast corner of said Florence Addition, said Southeast corner also being a Southwest corner of Southglen 3<sup>rd</sup> Addition, Wichita, Sedgwick County, Kansas; thence East on a South line of said Southglen 3<sup>rd</sup> Addition extended to a point of intersection with the East right-of-way of said Riverside Drainage Canal Easement; thence North on said East right-of-way of said Riverside Drainage Canal Easement to the Point of Beginning.



# MASTER SITE PLAN

# Map and Legal Description of Property to be Redeveloped

## Revised Southfork Phase A Project Area Map City of Wichita, Kansas



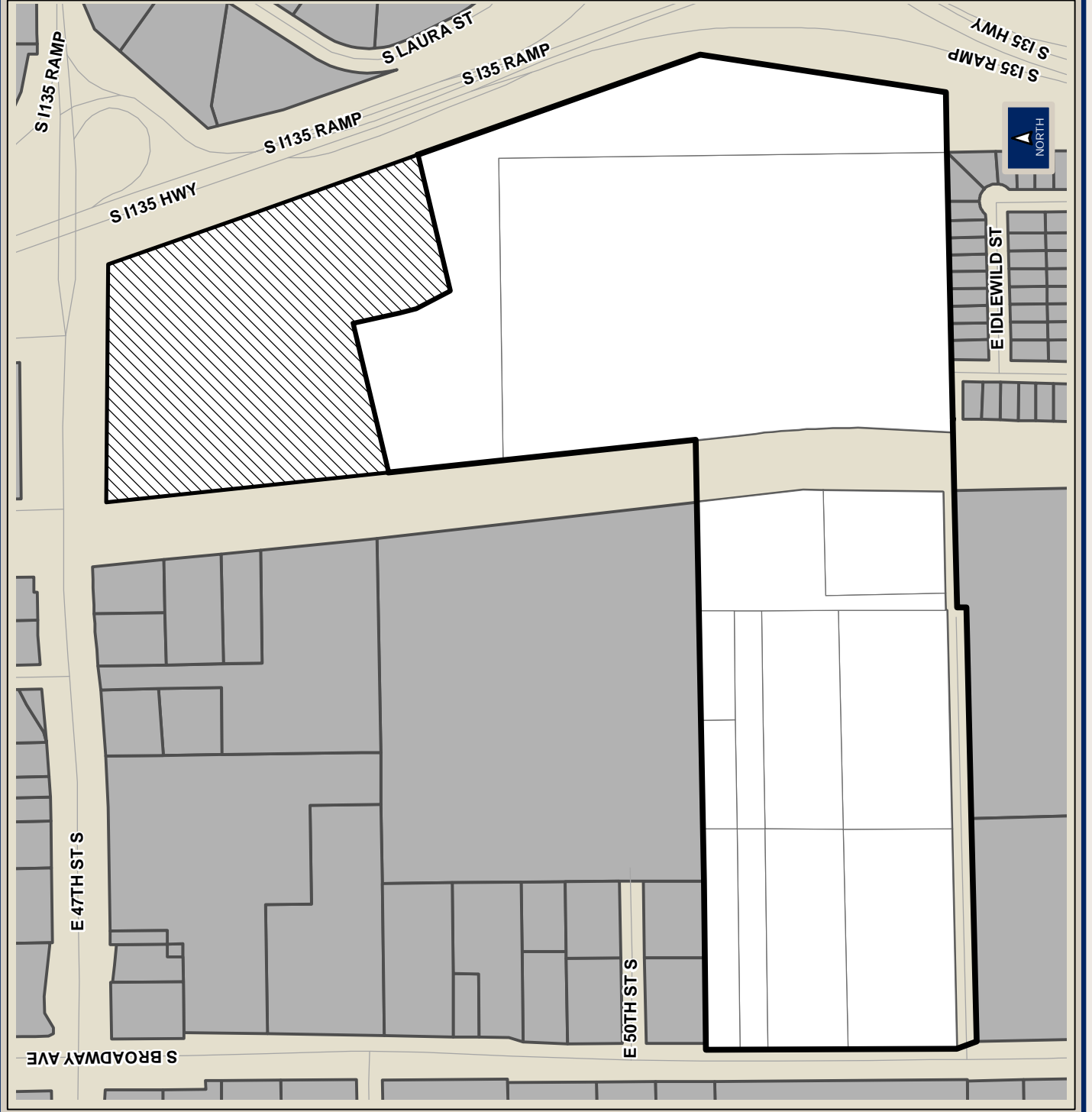
Software: ArcGIS 9.3.1  
Hardware: Dell Xeon  
Printer: HP 5000 Plotter

Map Data Source:  
Property Parcels  
provided by  
Sedgwick County GIS.

Road Centerlines  
provided by  
City of Wichita

Thursday, February 09, 2012 3:03:39 PM  
X:\GIS\Projects\Southfork\Southforkreddevdist\_Phase1.mxd

It is understood that while the City of Wichita, Data Center,  
Geographical Information Systems Department have no indication  
and reason to believe that these are inaccuracies in information  
incorporated in the base map, the Data Center-GIS per





**SOUTHFORK TIF  
PHASE A LEGAL DESCRIPTION**

A tract of land being located in Sections 21 and 28, Township 28 South, Range 1 East, of the 6th Principal Meridian, Sedgwick County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of the Northwest 1/4 of said Section 21; thence S89°31'13"E, on an assumed bearing for a distance of 1626.43 feet to the point of intersection with the East line of the Riverside Drainage District Easement as recorded in Deed Book 432 at Page 162; thence S6°12'07"E along the East line of said Riverside Drainage District Easement for a distance of 156.28 feet to the Point of Beginning, said point being 155.50 feet South of the North line of the NW 1/4; thence N89°31'13"E parallel with the North line of said NW 1/4 for a distance of 653.73 feet to a point; thence S19°28'47"E for a distance of 393.37 feet to a point on the Kansas Department of Transportation right-of-way as described in the deed, Book 1351, Page 253; thence S6°26'53"E for a distance of 129.68 feet; thence S19°28'47"E, for a distance of 500 feet; thence S70°31'13"W for a distance of 426.87 feet; thence N13°04'28"W for a distance of 391.92 feet; thence S76°55'32"W for a distance of 395.92 feet to the east right of way line of the Riverside Drainage District Easement; thence north along said east right of way line of the Riverside Drainage District Easement to the point of beginning.

# **Relocation Assistance Plan**

## **RELOCATION ASSISTANCE PLAN**

(K.S.A. 12-1777)

Assistance for the relocation of persons, families or businesses from property acquired in conjunction with the Southfork Phase A Project is not required. No persons or families will be displaced as a result of the Project and no tenants will be relocated other than within the Project boundaries.

# **Description of Proposed Southfork Phase A Project**

# **Southfork Redevelopment District**

## **DESCRIPTION OF PROPOSED SOUTHFORK PHASE A PROJECT**

The Southfork Redevelopment Project includes 50.4 acres near by 47<sup>th</sup> Street South and the Kansas Turnpike. The Southfork Phase 1 Project consists of infrastructure improvements on roughly 16 acres on the north end of the development, south of 47<sup>th</sup> Street South referred to as the “Project Area.” The Project Area will be developed by Southfork Investment LLC, the Developer, and includes the work described below:

### **Southfork Development**

The proposed Southfork Development Project is a multi-phase mixed-use commercial development of approximately 72 acres of vacant ground generally located south of 47<sup>th</sup> Street South, west of the Kansas Turnpike and east of Broadway Avenue. The overall project has been subdivided for planning purposes into three phases, designated Phase A, Phase B and Phase C, in which Phase A will commence first but other phases may start at any time in any order depending on market demand. It is anticipated that uses will include big box, strip center and free standing retail along with restaurants, hotels, entertainment, medical services and office space.

Phase A of the Southfork Development Project will include the north portion of the 50-acre site located adjacent to the Kansas Turnpike and fronting on 47<sup>th</sup> Street. The Phase A Project Area, depicted on the map in Section 3 of this Project Plan, is subdivided into 6-8 outparcel pad sites along the Turnpike and 47<sup>th</sup> Street suitable for restaurants, branch banks and highway-related commercial uses. Larger interior tracts are suitable for multi-tenant retail and hotel use.

### **Site Improvements**

#### **Sitework**

The developer intends to petition the City for improvements to be installed and financed through Special Assessments. Improvements include sanitary sewer, water, paving and drainage.

#### **Drainage**

The site will include significant drainage work due to a majority of the property being within a 100-year floodplain. Drainage work will include compacted fill to raise the property above the floodplain.

Tax increment financing will be used on a pay-as-you-go basis to reimburse special assessment taxes levied on the project property for public infrastructure

## USE OF TAX INCREMENT FINANCING

The City of Wichita has undertaken the legal steps necessary to establish a redevelopment district pursuant to state laws (K.S.A. 12-1770 *et seq.*) in order to use tax increment financing (“TIF”) to reimburse the costs of public infrastructure improvements financed by special assessment bonds issued pursuant to K.S.A. 12-6a01 *et seq.* Upon adoption of this project plan, the City will have established its authority under state law to reimburse the improvements from the incremental increase in property taxes resulting from the redevelopment of the Project Area. The TIF-reimbursed improvements consist of the following:

- **Public improvements** – The City will undertake the construction of the public improvements listed above, financed through special assessment bonds, at an estimated cost of \$4,785,000.

Sanitary Sewer	\$ 185,000
Water	212,081
Paving	2,500,000
Drainage	<u>1,955,000</u>
Total	4,852,081
- Estimated Bond Interest -                   \$ 2,159,828
- Total TIF Project Costs-                   \$7,011,909

# **Metropolitan Area Planning Commission Resolution**

## RESOLUTION

A RESOLUTION OF THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION FINDING THAT THE CITY OF WICHITA, KANSAS REDEVELOPMENT PROJECT KNOWN AS THE SOUTHFORK PHASE A PROJECT IS CONSISTENT WITH THE COMPREHENSIVE GENERAL PLAN FOR THE DEVELOPMENT OF THE CITY OF WICHITA, KANSAS.

WHEREAS, the City of Wichita, Kansas (the "City"), by Resolution No. 12-049 passed March 6, 2012, established the date of a public hearing wherein the City would consider the establishment of a redevelopment district, which resolution contained a redevelopment district plan (the "District Plan") which identifies proposed redevelopment project areas and a general description of the proposed buildings, facilities and improvements that are proposed to be constructed or improved; and

WHEREAS, by Ordinance No.49-260 adopted April 17, 2012, and published April 20, 2012, the City established a redevelopment district pursuant to K.S.A. 12-1770 et. seq., as amended (the "Act"), known as the Southfork Redevelopment District (the "District"), which ordinance also adopted the District Plan; and

WHEREAS, the Act provides that any city proposing to undertake a redevelopment project within a redevelopment district shall prepare a redevelopment project plan in consultation with the planning commission of the City; and

WHEREAS, the City proposes to undertake a redevelopment project within the District, consisting of public infrastructure improvements as set out in the Southfork Phase A Redevelopment Project Plan, (the "Project Plan") which has been prepared in accordance with the provisions of the Act and which contains a relocation assistance plan; and

WHEREAS, the City is considering the adoption of the Project Plan; and

WHEREAS, the City's proposed Project Plan has been presented to and reviewed by the Wichita-Sedgwick County Metropolitan Area Planning Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION:

SECTION 1. It is hereby, after due consideration, found that the Project Plan for the Southfork Redevelopment District is consistent with the intent of the comprehensive plan for the development of the City.

PASSED AND APPROVED by the Wichita-Sedgwick County Metropolitan Area Planning Commission, this 21<sup>st</sup> day of February, 2013.

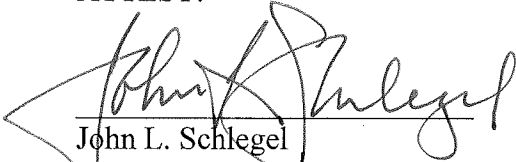


(Seal)



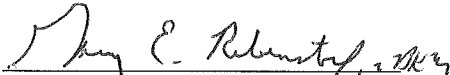
CHAIRMAN OF THE WICHITA-  
SEDGWICK COUNTY METROPOLITAN  
AREA PLANNING COMMISSION

ATTEST:



John L. Schlegel  
Secretary, Wichita-Sedgwick County  
Metropolitan Area Planning Commission

APPROVED AS TO FORM:



Gary E. Rebenstorf, City Attorney

**City of Wichita  
City Council Meeting  
April 16, 2013**

**TO:** Mayor and City Council

**SUBJECT:** Approval of Southfork Development Agreement and Pipeline Relocation & Reimbursement Agreement (District III)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendation:** Approve the Development Agreement and Pipeline Relocation Agreement and place the Ordinance on first reading.

**Background:** On April 17, 2012, the City Council took the necessary legal steps to establish the Southfork Redevelopment District for the purpose of using tax increment financing (“TIF”) to assist Southfork Investment, L.L.C. with the redevelopment of property located within the district. The action taken by the City Council established 2012 as the base year, from which the increase in property tax revenues (the tax increment) will be measured. On March 5, 2013, the City Council set a public hearing for the adoption of a Phase A project plan for redevelopment district, to be held April 16.

In order to direct how the project plan will be implemented and the development will occur, the City and Developer have drafted a Development Agreement. The Agreement sets out the specific terms for the City’s participation and the Developer’s obligations with respect to the Southfork Redevelopment Project. In addition to the Development Agreement, the City and Developer propose to enter into a three party agreement for the relocation of a high pressure gas line that runs under the development.

**Analysis:** The attached Development Agreement between the City and Southfork Investment L.L.C. (“Developer”) provides the contractual framework for the Redevelopment Project. The Project will be developed in multiple phases, beginning with Phase A. Each successive phase will require the City to adopt a related TIF Project Plan for that phase. The Development Agreement allows the Developer to change the order of successive phases. The Developer will be required to commence development of Phase A within 5 years of the date of the agreement and all phases within 15 years, with all to be completed within 20 years.

**Related Public Improvements**

The Development Agreement identifies certain Related Public Improvements that the City agrees to undertake, subject to petitions and procedures relating to special assessment financing, and to reimburse the costs with tax increment financing, on a pay-as-you-go basis. The Related Public Improvements include:

**PHASE A:**

Street Paving and Pipeline Relocation	\$2,500,000	
Water Main Extension	452,000	212,081
Sanitary Sewer Extension	483,000	185,000
Drainage Improvements	1,950,000	1,955,000
Total Phase A	\$4,785,000	4,852,081

**PHASE B:**

Street Paving	\$412,000
Water Main Extension	95,000
Sanitary Sewer Extension	101,000
Drainage Improvements	1,600,000
Total Phase B	\$2,208,000

PHASE C:

Custy Bridge (over drainage canal)	\$1,700,000
Custy Street Paving	1,673,000
Water Main Extension	80,000
Sanitary Sewer Extension	<u>250,000</u>
Total Phase C	\$3,703,000

TOTAL RELATED PUBLIC IMPROVEMENTS: ~~\$10,696,000~~ **\$10,763,081**

Special Assessments

The Related Public Improvements will be constructed by the City and financed by special assessment bonds. The Developer and subsequent property owners within the TIF district will be responsible for payment of the annual assessments. As tax increment revenue generated by the project becomes available, the City will reimburse the property owners for special assessment payments actually paid, to the extent such revenues are in fact generated. If TIF revenue is not sufficient to reimburse special assessment payments, there is no obligation for the City to pay the difference. However, if TIF revenue exceeds current special assessment payments in subsequent years, property owners may be reimbursed for prior assessments not reimbursed.

Shortfall Guaranty

The Development Agreement includes an agreement by the Developer to pay the City for any shortfall in special assessment payments. The Developer will also deposit bank letters of credit with the City equal to 35% of the Related Public Improvement costs for each phase, as a condition for special assessment financing, which can only be released after substantial development has occurred. Additionally, Jay Maxwell agrees to personally guarantee payment of any special assessment shortfalls if the Developer is unable to do so. The City has agreed that in any year that the TIF revenue exceeds the annual debt service of the special assessments, the City will first reimburse the Developer and Jay Maxwell for any shortfall payments made, to the extent such excess revenue is available.

Pipeline Relocation and Reimbursement Agreement

The Developer has requested special assessment financing for the relocation of a high pressure gas line owned by Southern Star Central Gas Pipeline, Inc. that runs through the property and conflicts with the alignment of the Phase A street paving project. The attached three-party agreement between the City, Developer and Southern Star provides for the relocation of the gas line and payment of costs by the City, through special assessment financing. Southern Star will contract to relocate the pipeline. In order to secure repayment of the pipeline relocation, the Developer will submit a Letter of Credit to the City.

In order to allow Southern Star to hire an approved contractor for the relocation of a high pressure gas line, the City will need to invoke Charter Ordinance No. 203 to allow the work to commence without a public bid. Southern Star agrees to solicit competitive bids from pre-approved contractors.

**Financial Considerations:** The Related Public Improvements will be financed with general obligation bonds to be paid by special assessments levied on property within the Southfork Redevelopment District and secured by the full faith and credit of the City. Property owners who have paid special assessments would later be reimbursed on a pay-as-you-go basis with tax increment revenue, but only to the extent such revenue is available.

**Legal Considerations:** The Law Department has reviewed and approved as to form the attached agreements and ordinance. Pursuant to Charter Ordinance No. 203, the ordinance must be approved by a two-thirds majority vote of the City Council.

**Recommendations/Action:** It is recommended that the City Council approve first reading of the ordinance approving the Southfork Development Agreement and the Pipeline Relocation and Reimbursement Agreement, and authorize the necessary signatures.

**Attachments:**

Development Agreement between the City and Southfork Investment L.L.C.

Pipeline Relocation and Reimbursement Agreement

Ordinance

ORDINANCE NO. 49-486

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS (THE "CITY"), APPROVING CERTAIN PLANNED CONSTRUCTION, APPROVING AND AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND SOUTHFORK INVESTMENT, L.L.C. REGARDING DEVELOPMENT OF PROPERTY AND APPROVING AND AUTHORIZING THE EXECUTION OF A RELOCATION AGREEMENT BETWEEN THE CITY, SOUTHFORK L.L.C. AND SOUTHERN STAR CENTRAL GAS PIPELINE INC. FOR PURPOSES OF RELOCATION OF A HIGH PRESSURE GAS LINE AT AND ADJACENT TO 47<sup>TH</sup> STREET SOUTH, ALL PURSUANT TO CHARTER ORDINANCE NO. 203

WHEREAS, in conjunction with this ordinance, the City of Wichita (the "City") has approved Southfork Investment L.L.C. (the "Developer") to serve as developer in connection with the development of a mixed use development, and the construction of certain public and private improvements in connection with this development, and is now considering allowing construction, without public bid, of up to \$1,129,480 in improvements related to the relocation of a high pressure gas line; and,

WHEREAS, the Developer will furnish adequate sureties for the full and faithful completion of the said improvements; and

WHEREAS, the City has an easement interest in the property where said improvements are to be constructed; and

WHEREAS, Charter Ordinance No. 203 of the City requires that, prior to commencement of construction of the improvements, the Governing Body of the City must conduct a public hearing to consider whether to implement the subsection of Charter Ordinance No. 203 that allows for development agreements, in the context of these specific improvements, and must adopt, by 2/3

vote of its members, an Ordinance approving the construction under the provisions of Charter Ordinance No. 203; and

WHEREAS, the Governing Body of the City, pursuant to the requirements of Charter Ordinance No. 203, has conducted a public hearing on April 16, 2013, to hear and consider public comment on the question of whether to implement the provisions of Charter Ordinance No. 203 to approve the construction of the subject improvements under the provisions of Charter Ordinance No. 203 and the proposed Agreements.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS AS FOLLOWS:

Section 1. Authorization of Development Agreement. The City is hereby authorized to enter into the Development Agreement by and between the City and Southfork Investment L.L.C., in substantially the form presented by City Staff for consideration prior to the public hearing of April 16, 2013, together with such revisions and modifications as the Governing Body has directed, following the conclusion of such public hearing.

Section 2. Authorization of Relocation Agreement. The City is hereby authorized to enter into the Pipeline Relocation Agreement by and between the City, Southern Star Central Gas Pipeline Inc. and Southfork Investment L.L.C., in substantially the form presented by City Staff for consideration prior to the public hearing of April 16, 2013, together with such revisions and modifications as the Governing Body has directed, following the conclusion of such public hearing.

Section 3. Approval of Construction of the Pipeline Relocation Project. The Governing Body hereby approves the completion of design work and construction of the Relocation Project, as defined in the Agreements, under the provisions of Charter Ordinance No. 203, and further

requires (and the City is authorized to accept as sureties for completion of the subject improvements), a labor and materials payment and performance bond to be obtained by the Developer (or its General Contractor, as defined in the Agreement) in the full amount of the estimated cost of completion of the Relocation Project.

Section 4. Execution of Documents. The Mayor of the City is hereby authorized and directed to execute the Development Agreement and Relocation Agreement in substantially the form approved by the Governing Body with such additional minor corrections thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof, and City Staff shall deliver the Agreements for and on behalf of and as the act and deed of the City.

Section 5. Further Authority. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such further action as necessary to carry out and give effect to the transactions contemplated by this Ordinance, the Development Agreement, and such other documents as are contemplated by the Development Agreement in connection with the construction of the Relocation Project improvements.

Section 6. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by vote of 2/3 of the members of the governing body of the City of Wichita, Kansas, and publication once in the official newspaper of the City.

PASSED by the Governing Body of the City of Wichita, Kansas this 23<sup>rd</sup> day of April, 2013, with no less than 2/3 of the members voting in favor thereof.

CITY OF WICHITA, KANSAS

By \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

(SEAL)

Approved as to Form:

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Gary E. Rebenstorf ,City Attorney



## RELOCATION AND REIMBURSEMENT AGREEMENT

**THIS RELOCATION AND REIMBURSEMENT AGREEMENT** (this “Agreement”), made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between **SOUTHERN STAR CENTRAL GAS PIPELINE, INC.** (formerly Williams Gas Pipelines Central, Inc., Williams Natural Gas Company, Northwest Central Pipeline, Inc., and Cities Service Gas Company), a Delaware corporation, with its principal place of business being 4700 Kentucky Highway 56, Owensboro, Kentucky or P.O. Box 20010, Owensboro, Kentucky 42304, respectively (herein referred to as “Southern Star”), and **SOUTHFORK INVESTMENT L.L.C.**, a Kansas limited liability company, having an address of 1634 East Central, Wichita, Kansas 67214 (herein referred to as “Owner”), and **CITY OF WICHITA, KANSAS**, a body corporate and politic and a political subdivision of the State of Kansas (“City”).

### WITNESSETH:

**WHEREAS**, Southern Star is the owner of a 20-inch natural gas pipeline and easements along, across and over the following land, to wit:

By virtue of a certain Right of Way Contract, dated September 14, 1943, from B.S. McMillin and A.O. McMillin, husband and wife, to Cities Service Gas Company, recorded in Book 165 at Page 416, in the Register of Deeds Office, Sedgwick County, Kansas. An assignment of right-of-way to construct, operate, maintain a pipeline through the Northeast Quarter (NE/4), of the Northwest Quarter (NW/4), and West Half (W/2) of the Northeast Quarter (NE/4) of Section 21, Township 28 South, Range 1 East, in Sedgwick County, Kansas, upon which right of way Southern Star owns and operates a 20-inch high pressure natural gas pipeline designated as the “Line TE” pipeline across property described in the above-referenced agreement belonging to the landowners of record at the time the right-of-way and easement agreement were granted (herein, “Existing Pipeline”); and

**WHEREAS**, Owner owns the land to comprise the proposed Southfork Commercial Addition, as set forth in that certain proposed One Step Final Plat for Southfork Commercial Addition, dated June 7, 2012, attached hereto as Attachment A and hereby incorporated herein (the “Proposed Southfork Commercial Addition”) and the Existing Pipeline resides on a portion of the Proposed Southfork Commercial Addition;

**WHEREAS**, Owner and City are entering into that certain Development Agreement Regarding Development of Southfork Commercial Center Project and Related Public Improvements (the “Development Agreement”), in which, among other things, City is engaging Owner to relocate the Existing Pipeline, as shown on Pipeline Exhibit, sheet 1 of 1 Job #1858 as furnished by Poe and Associates Inc., dated March 2012, attached hereto as Attachment B, and incorporated herein by this reference, into the New Easement (as defined herein) provided by Owner, also shown on Attachment B (the “Relocation Project”);

**WHEREAS**, the Relocation Project will require a permanent sixty-six foot (66’) wide easement, legally described in Attachment C (the “New Easement”); and

**WHEREAS**, under the terms of this Agreement, Southern Star is willing to relocate a portion of its pipeline to accommodate said improvements.

**NOW, THEREFORE**, in consideration of the premises and mutual promises of the parties, Owner and Southern Star agree as follows:

1. Incorporation of Recitals. The recitals set forth at the beginning of this Agreement are hereby incorporated into this Agreement as if fully set forth herein.

2. Construction of the Relocation Project. Subject to the terms and conditions set forth in this Agreement:

- (a) City, at its sole cost and expense, will construct by causing Owner to construct the Relocation Project as part of the Related Public Improvements (as defined in the Development Agreement);
- (b) Owner will construct the Relocation Project by causing Southern Star to construct the Relocation Project; and
- (c) Southern Star will construct, directly or through qualified subcontractors, the Relocation Project.

3. Selection of Contractor; Scope of Pipeline Relocation Work; Access and Cooperation. Southern Star shall select subcontractors it deems qualified in its sole discretion (each a “Contractor” and, collectively, “Contractors”), but subject to final, prior approval by City and Owner. Southern Star agrees that each Contractor shall be selected through a competitive bidding process solicited from a minimum of two written bids. If City, Owner and Southern Star are unable to agree on the selection of a Contractor, Southern Star shall have no obligation to proceed with the relocation of the pipeline. The parties acknowledge and agree that the form of the construction contract (the “Construction Contract”) for the Relocation Project whereby the Contractor shall perform the Pipeline Relocation Work (as defined) shall be in substantially the same form as set forth in Attachment D. The scope of work for the Relocation Project (the “Pipeline Relocation Work”) is as follows:

all labor, pipe and other materials and professional services, as part of the Relocation Project, required to: (i) purge and remove that portion of Existing Pipeline no longer required to be located in the Proposed Southfork Commercial Addition and backfill; (ii) fabricate and install approximately 1000 LF of 20” x 0.375” WT Pipe, including a double stopple (using existing line as the bypass) bore street entrance (the “New Pipeline”) and appurtenances thereto to replace such Existing Pipeline; (iii) survey, excavate, engineer, re-route and install such New Pipeline within the New Easement; and (iv) connect the New Pipeline to the Existing Pipeline system at both ends of the New Pipeline

and is further described in Attachment F (Estimated Costs).

All documentation not previously provided to Owner and City, including, without limitation, all notices, change orders, evidence of insurance, applications for payments and/or lien releases provided by Southern Star to Contractors, and/or Contractors to Southern Star, pursuant to the Construction Contract shall be provided by Southern Star to Owner and City along with each

monthly progress statement described in Section 6; provided, however, Southern Star agrees to provide to Owner and City any change order and/or change orders from the actual estimate received by the selected Contractor after competitive bidding which singly, or in the aggregate, exceeds Fifty Thousand United States Dollars (US\$50,000) within three (3) business days. During the Relocation Project, Southern Star shall be furnished an access route to the Proposed Southfork Commercial Addition from 47<sup>th</sup> Street, and provided additional temporary workspaces during construction for equipment and vehicles, which shall be maintained in accordance with the Construction Contract.

4. Conditions Precedent to Commencement of the Pipeline Relocation Work. The following shall be conditions precedent ("Conditions Precedent") to commencement of the Pipeline Relocation Work:

- (a) Owner shall have furnished to City a letter of credit or other instrument of surety guaranteeing the full and faithful completion of the Pipeline Relocation Work as required by Charter Ordinance No. 203;
- (b) City's Governing Body shall have conducted a public hearing on the issue of whether to implement the provisions of subsection 1 (b) of Charter Ordinance No. 203 to allow the performance of the Pipeline Relocation Work pursuant to the Development Agreement without public bid, and shall thereafter have adopted an approving Ordinance by a vote of at least 2/3 of the members thereof;
- (c) City's Governing Body shall have conducted a public hearing on the issue of whether to adopt the Southfork Phase A Project Plan for the Southfork Redevelopment District, and shall have adopted an approving Ordinance by a vote of at least 2/3 of the members thereof, pursuant to K.S.A. 12-1772;
- (d) The Estimated Costs (as defined below) and the scope of the Pipeline Relocation Work will have been included in the petition (the "Paving Petition") for special assessment financing of the Related Public Improvement (as defined in the Development Agreement) known as Paving (Phase A), in keeping with the provisions and standards of 18 C.F.R. Part 201, and after an opportunity to review and comment by Southern Star, Owner will have submitted the Paving Petition and received approval of the same by City's Governing Body;
- (e) Owner and City shall have received an executed copy of the Construction Contract;
- (f) The terms and conditions of the New Easement, in substantially the same form as that certain Amended and Restated Right-of-Way Easement Agreement, attached hereto as Attachment E, shall be granted to Southern Star and recorded with the Sedgwick County Register of Deeds; and
- (g) Owner shall have granted City an easement encompassing the location of the New Pipeline, which easement shall be recorded with the Sedgwick County Register of Deeds after recordation of the New Easement. The City's easement shall be subordinate to Southern Star's pipeline easement.

5. Cost of Construction.

- (a) Estimated Costs. The estimated cost of the Relocation Project and the performance of the Pipeline Relocation Work in connection with the same is One Million One Hundred Twenty-nine Thousand Four Hundred Eighty United States Dollars (US \$1,129,480), as further delineated in Attachment F (the “Estimated Costs”), as reasonably estimated by Southern Star.
- (b) Acknowledgement. Subject to the terms set out in this Agreement, City and Owner acknowledge that the Estimated Costs shall not be considered a maximum or minimum and that the actual cost of the Pipeline Relocation Work may be more or less than the Estimated Costs. City and Owner agree that the actual costs shall be fully reimbursable in accordance with Section 6(a), subject to the provisions of Section 6(b) herein.

6. Payment for the Pipeline Relocation Work and Reimbursement of the Same. Upon its execution of each Construction Contract, Southern Star shall perform its payment obligations thereunder. In accordance with this Agreement and the Paving Petition, City shall periodically make direct reimbursements to Southern Star following receipt of reimbursement applications as follows:

- (a) Direct Reimbursements Consistent with Paving Petition. At Southern Star’s request (via a monthly progress statement submitted to both City and the Owner, accompanied by detailed, itemized supporting statements showing the amounts therein to be within the authorized scope of work set forth in the Paving Petition and to be properly owed or to have been properly paid by Southern Star to its Contractor), City will, within twenty (20) days of receipt of said statement and the Owner’s approval thereof, reimburse Southern Star directly for the cost reflected on such monthly progress statement.
- (b) Expenditures Not Consistent with Paving Petition. City has no obligation to reimburse Southern Star for expenditures attributable to change orders outside the scope of work set forth in the Paving Petition or expenditures in excess of the aggregate project costs set forth in the Paving Petition, unless the Owner has first submitted a legally sufficient amended petition and City’s Governing Body, in its sole discretion, has completed all legally required steps to amend the original Paving Petition to expand the scope of work or increase the amount of authorized costs to allow for reimbursement of the costs at issue. If any actual and legitimate pipeline relocation costs ultimately are denied by the City as being expenditures attributable to change orders outside the scope of work set forth in the Paving Petition or expenditures in excess of the aggregate project costs set forth in the Paving Petition or for any other reasons, Owner shall fully reimburse Southern Star for those costs within thirty (30) days of submission of an invoice by Southern Star. In the event that Southern Star incurs legal fees and costs in the pursuit of obtaining reimbursement, Owner shall be fully responsible for any and all reasonable legal fees and costs incurred by Southern Star.

7. Southern Star Covenants to Owner and City.

- (a) Southern Star shall notify Owner and City's City Engineer five (5) days in advance of the time it expects to start the Pipeline Relocation Work on site, as well as when actually beginning, discontinuing, resuming, and upon completing the work.
  - (b) Upon completion of the Relocation Project, Southern Star shall forward to Owner and City a complete copy of the final as-built drawings associated with the Relocation Project.
  - (c) The Pipeline Relocation Work will be completed within 270 calendar days after notice to City of commencement of Pipeline Relocation Work on site, unless extended due to unusually severe weather, which, for purposes of this provision, will mean adverse weather that is abnormal for the time and place of its occurrence.
8. Owner's Covenants to City. Owner covenants to City as follows:
- (a) The Pipeline Relocation Work will be completed within 300 calendar days after notice to City of commencement Pipeline Relocation Work on site, unless extended due to unusually severe weather, which, for purposes of this provision, will mean adverse weather that is abnormal for the time and place of its occurrence.
  - (b) The full scope of work identified in the Paving Petition approved by the City Council will be completed within two (2) years after the giving of notice to City of commencement of Pipeline Relocation Work referenced above.
9. Owner's Covenants to Southern Star. Owner covenants to Southern Star as follows:
- (a) Owner agrees not to erect, construct, or create any other buildings, improvements, fences, structures, or obstructions of any kind either on, above, or below the surface of the ground on Southern Star's easement, or cause or permit these things to be done by others, without the express, written permission of Southern Star.
  - (b) Owner agrees not to erect, construct, or create any inhabitable building within 50 feet of the center of the New Pipeline.
  - (c) Owner agrees no deep-rooted shrubs or trees are permitted on the New Easement. All sprinkler or irrigation systems will require review by a Southern Star representative. Sprinkler heads will not be permitted within 10 feet of the New Pipeline. Southern Star reserves the right to cut and /or remove landscape encroachments on the New Easement as required in the operation, inspection and maintenance of its pipeline facilities; further Southern Star assumes no responsibility for any cost involved in the replacement of said cut and/or removed landscape plantings.
  - (d) Owner agrees that all roads, streets, curb and guttering, driveways, park areas will be installed with the standards shown on Standard Drawing STD-ENC-X-RD or STD-ENC-X-RDSC, which must be reviewed and approved by Southern Star prior to their construction. Parking areas installed over Southern Star pipelines will be designed with a 20 foot by 30 foot green space centered over the pipeline (10 feet either side of

pipeline and 30 feet along pipeline). Green spaces will be spaced at intervals not exceeding 40 feet in length. Southern Star will retain the right to cut all present and proposed driveways, roads, streets, curb and guttering, parking area, and will have no responsibility for restoration, loss of use or access.

- (e) Owner agrees that all underground utility lines and utility service lines, when designed, must be installed at least 24-inches below on direct cut installation, or 60-inches below the pipeline for bored crossing of Southern Star natural gas pipeline in accordance with the minimum standards shown on Standard Drawings STD-ENC-X-BU, STD-ENC-X-EC, STD-ENC-P-UPL, STD-ENC-P-OPL, STD-ENC-PX-FP, and STD-ENC-PX-TC. Plans must be submitted for review and approval by Southern Star prior to their construction.
- (f) Owner agrees to inform Southern Star of any construction activities, including the installation or repair of other utility lines that may cross the Southern Star easement, by contacting the state One-Call System.
- (g) Notwithstanding anything to the contrary set forth in the remainder of this Section 9, Southern Star acknowledges and agrees that the plans attached hereto as Attachment G are approved by Southern Star and deemed by Southern Star to be in compliance with the terms and conditions of the remainder of this Section 9.

10. Notices. All notices or itemized invoices required or permitted under this Agreement shall be in writing and shall be deemed effective: (a) upon delivery, if delivered in person, or documented refusal to accept such delivery, whereupon such service shall be deemed complete; (b) one (1) day after delivery to Federal Express or other similar courier service, marked for next day delivery, addressed as set forth below; (c) three (3) days after deposit in United States Mail if sent by registered or certified mail, return receipt requested, addressed as set forth below; or (d) upon being sent by facsimile or electronic message transmission (including pdf), if confirmed by sending a copy by any other method specified herein, addressed as set forth below. The notice addresses of the parties are as follows:

If to Owner: Southfork Investment, L.L.C.  
Attn: Jay S. Maxwell  
301 N. St. Francis  
Wichita, Kansas 67202  
Fax: (316) 219-8600  
Email: [jmaxwell2@pixius.com](mailto:jmaxwell2@pixius.com)

With a copy to: Hinkle Law Firm LLC  
Attn: Laura D. Fent  
8621 E. 21<sup>st</sup> St. N., Ste., 200  
Wichita, KS 67206  
Fax (316) 631-1718  
Email: [lfent@hinklaw.com](mailto:lfent@hinklaw.com)

If to Southern Star: Southern Star Central Gas Pipeline, Inc.  
Attn: General Accounting  
P.O. Box 20010

Owensboro, KY 42304  
Fax: (270) 852-5016  
Email: [Alicia.K.Flaim@sscgp.com](mailto:Alicia.K.Flaim@sscgp.com)

With a copy to: Southern Star Central Gas Pipeline, Inc.  
Attn: Beverly Griffith, General Counsel  
P.O. Box 20010  
Owensboro, KY 42304  
Fax: (270) 852-5010  
Email: [Beverly.H.Griffith@sscgp.com](mailto:Beverly.H.Griffith@sscgp.com)

If to City: City Clerk  
City Hall, 13<sup>th</sup> Floor  
455 North Main Street  
Wichita, KS 67202  
Fax # (316) 268-4519

With a copy to: City Manager  
City Hall, 13<sup>th</sup> Floor  
455 North Main Street  
Wichita, KS 67202

And

City Attorney  
City Hall, 13<sup>th</sup> Floor  
455 North Main Street  
Wichita, KS 67202  
Fax # (316) 268-4335

A party hereto may change the name and address of the designee to whom its notice shall be sent by giving written notice of such change to the other parties hereto in the manner above provided, at least five (5) days prior to the effective date of such notice. Any legal counsel, as designated above, or by any party by written notice to the other party, is authorized to give notices under this Agreement on behalf of its respective client.

11. Covenants Run With The Land. The terms of this Agreement shall constitute covenants running with the land and shall be binding upon and inure to the benefit of the parties hereto, or their successors and assigns. The obligations of parties herein shall survive termination of this Agreement.

12. Counterparts; Facsimile Signatures. This Agreement may be executed in counterparts, all of which together shall constitute an agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing such party's signature

hereto, independently of the signature of any other party. Facsimile signatures of the parties hereto shall be binding.

13. Applicable Law; Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of Kansas, without regard to its principles of conflict of laws. Any legal action brought to enforce or construe this Agreement shall be brought in the courts located in Sedgwick County, Kansas, and the parties hereby agree to the jurisdiction of such courts and agree that they will not invoke the doctrine of *forum non conveniens* or other similar defenses.

14. Assignment. Neither party hereto may assign its rights and obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably delayed or withheld. No assignment permitted hereunder shall release the assignor from any liability under this Agreement.

15. Further Assurances. Subject to the terms and conditions of this Agreement, each of the parties hereto agrees to use its commercially reasonable efforts to take, or cause to be taken, all action and to do, or cause to be done, all things reasonably necessary, proper, or advisable under all applicable laws to consummate and make effective the transactions contemplated by this Agreement, including, without limitation to satisfy the Conditions Precedent. Except for Southern Star, each of the parties shall comply with this Section 15 at its own expense. Nothing contained in this section shall be construed as pre-approval by the City Council of any actions required by the City Council in its legislative capacity pursuant to state laws.

16. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and no representations, inducements, promises, or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect.

*Signatures follow on the next page.*



**IN WITNESS WHEREOF**, the parties hereto have executed this Relocation and Reimbursement Agreement the day and date first hereinabove written.

**SOUTHFORK INVESTMENT, L.L.C.**

By: \_\_\_\_\_  
Jay S. Maxwell, President

**“Owner”**

**SOUTHERN STAR CENTRAL GAS PIPELINE,  
INC.**

By: \_\_\_\_\_  
Robert S. Bahnick, Vice President & Chief  
Operations Officer

**“Southern Star”**

**CITY OF WICHITA, KANSAS**

By: \_\_\_\_\_  
Carl Brewer, Mayor

**“City”**

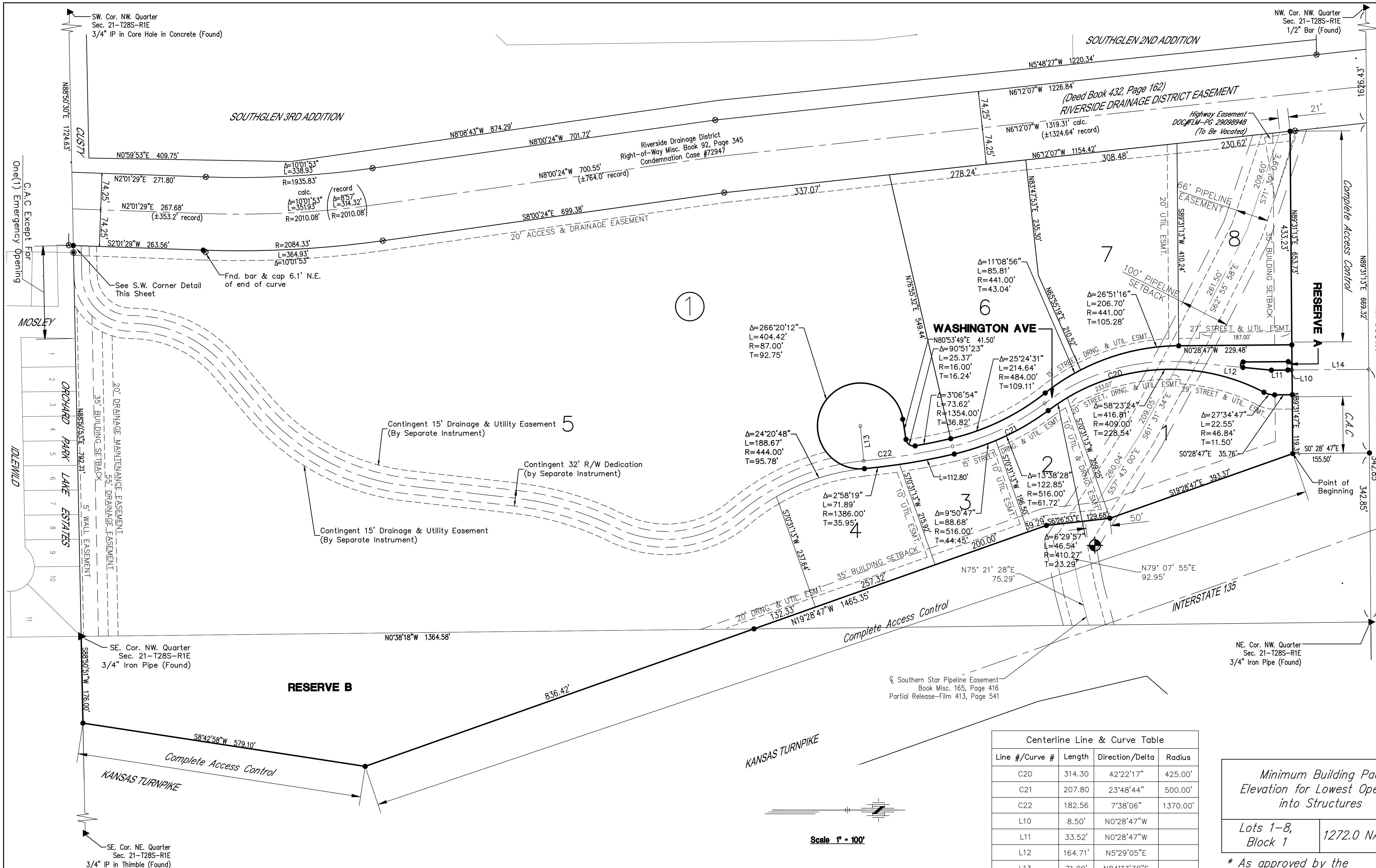
Attest:

By: \_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:

By: \_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

**Attachment A**  
**Proposed Southfork Commercial Addition**



**LEGEND**

- 1 1/2" Pipe Found
- ⊗ Moehring Bar & Cap Found
- ▶ Section Corner Found
- 5/8" Bar w/Poe Cap Set

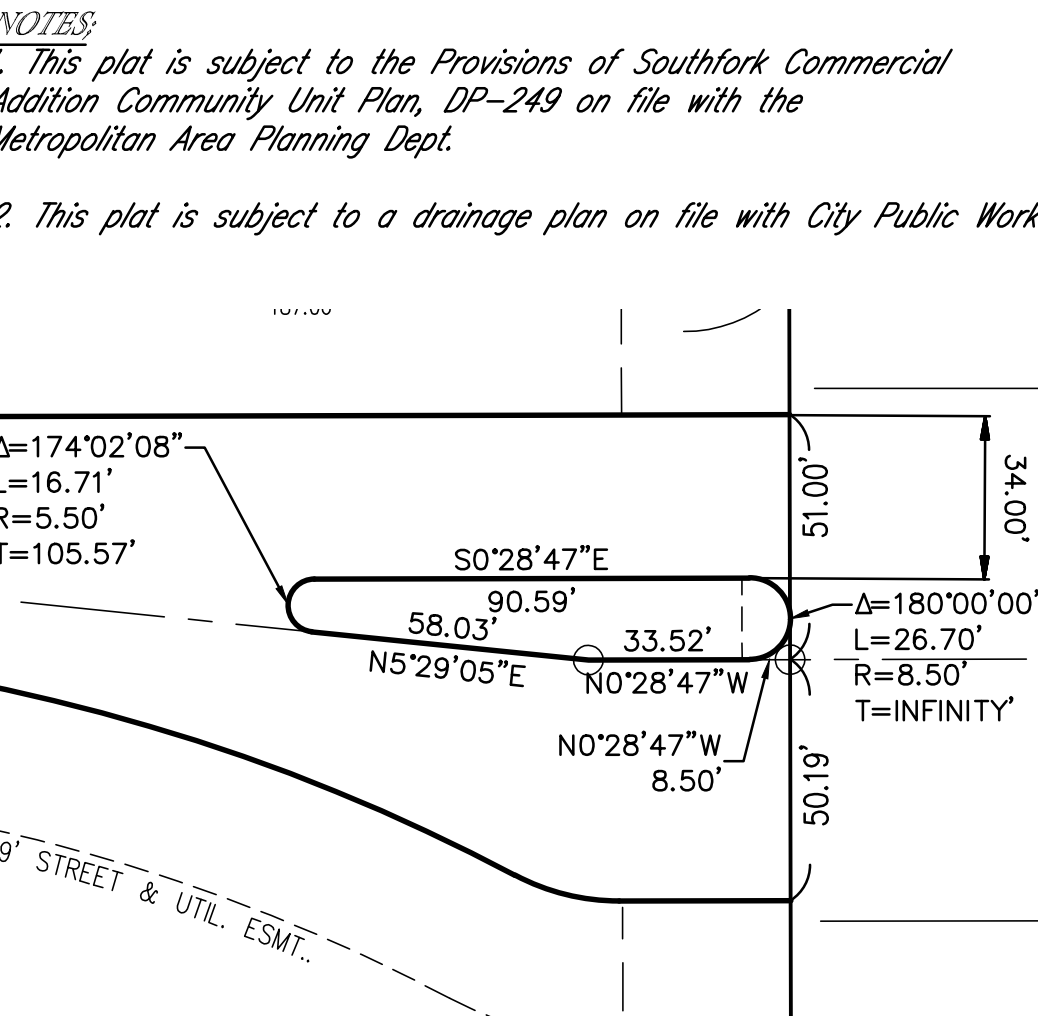
**BENCHMARK:**  
Bench Mark #72  
City of Wichita bench mark disk. 20.7' E. of E. Broadway curb and 41.5' S. of centerline Custy. Elevation 1274.71 NGVD88 (Elevation 86.82 city datum)

Bench Mark #60  
" " cut on S.E. corner of bridge abutment over Riverside Drainage District on 47th St. S. Elevation 1273.80 NAVD88

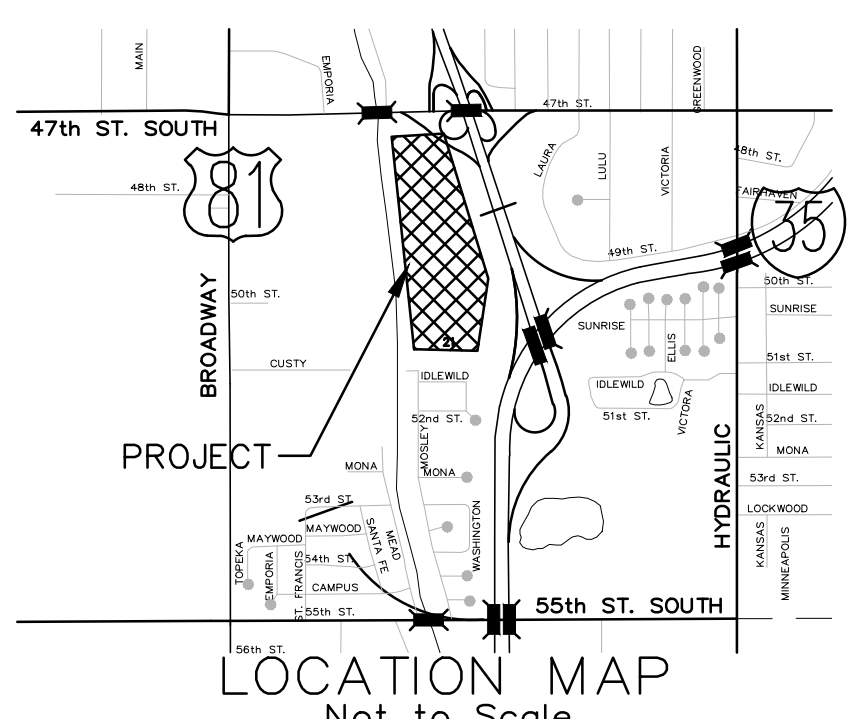
Found bar on E. line of Riverside Drainage District Easement

Found bar on S. line of NW 1/4 Sec. 21-T28S-R1E and on the West line extended of Lot 1, Block 1, Orchard Park Lake Estates, Wichita, Kansas

*S.W. CORNER DETAIL*  
Scale 1"=10'



**RESERVE A DETAIL**



Centerline Line & Curve Table			
Line #/Curve #	Length	Direction/Delta	Radius
C20	314.30	42°22'17"	425.00'
C21	207.80	23°48'44"	500.00'
C22	182.56	7°38'06"	1370.00'
L10	8.50'	N0°28'47"W	
L11	33.52'	N0°28'47"W	
L12	164.71'	N5°29'05"E	
L13	71.00'	N84°33'38"E	
L14	155.50'	N0°28'47"W	

Minimum Building Pad  
Elevation for Lowest Opening  
into Structures

Lots 1-8, Block 1	1272.0 NAVD88 *
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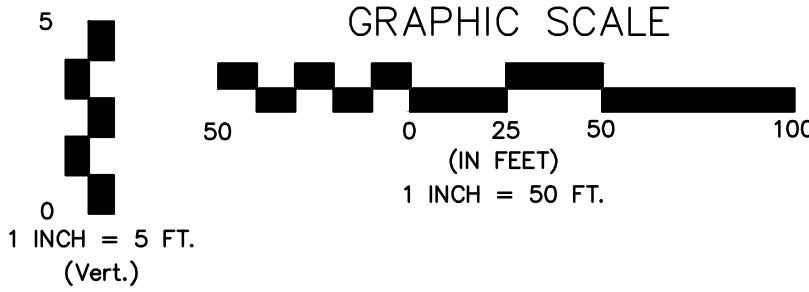
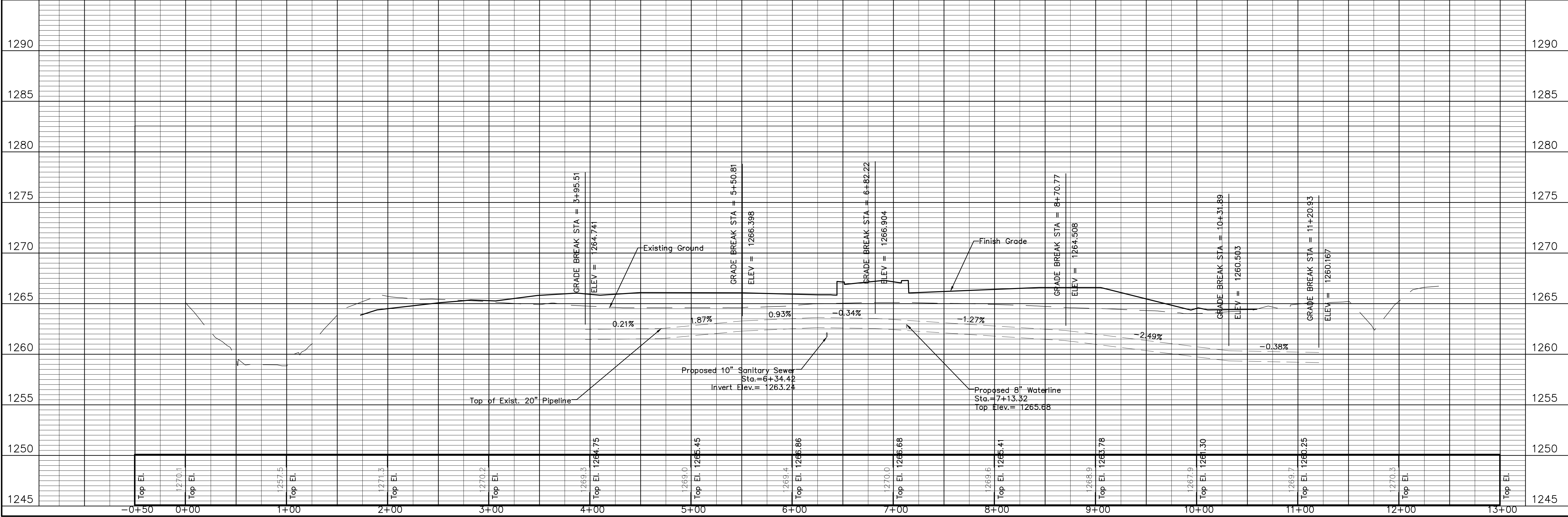
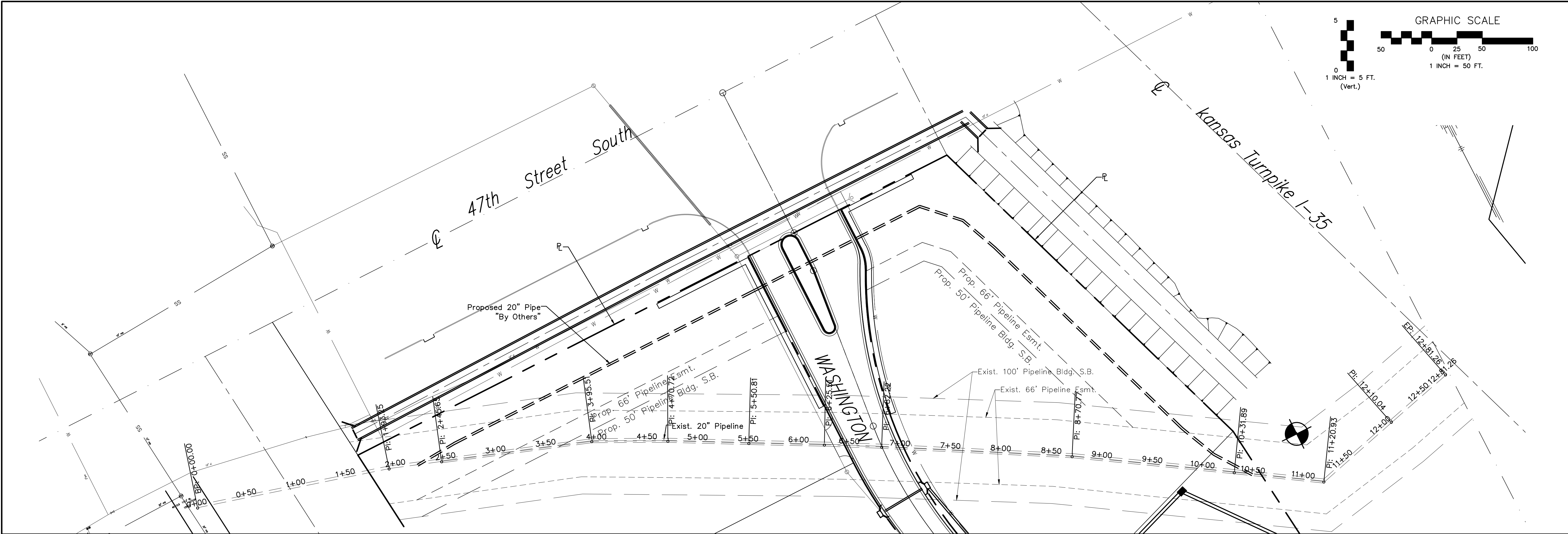
\* As approved by the  
City Stormwater Engineer

# ONE STEP FINAL PLAT SOUTHFORK COMMERCIAL ADDITION

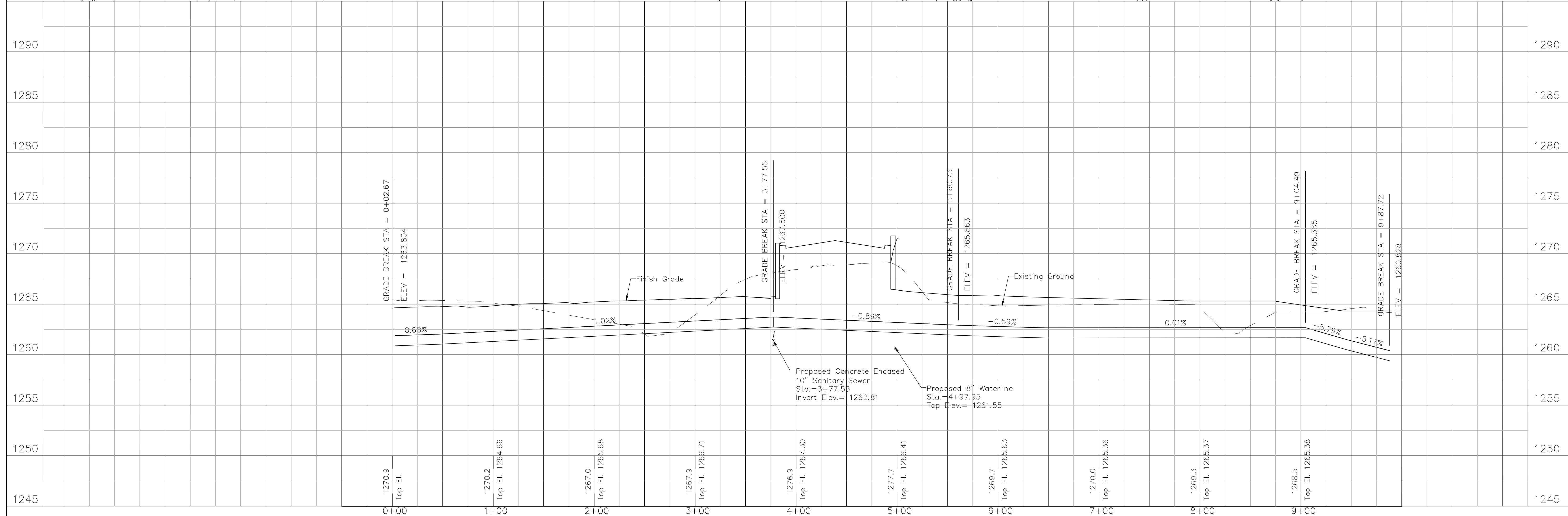
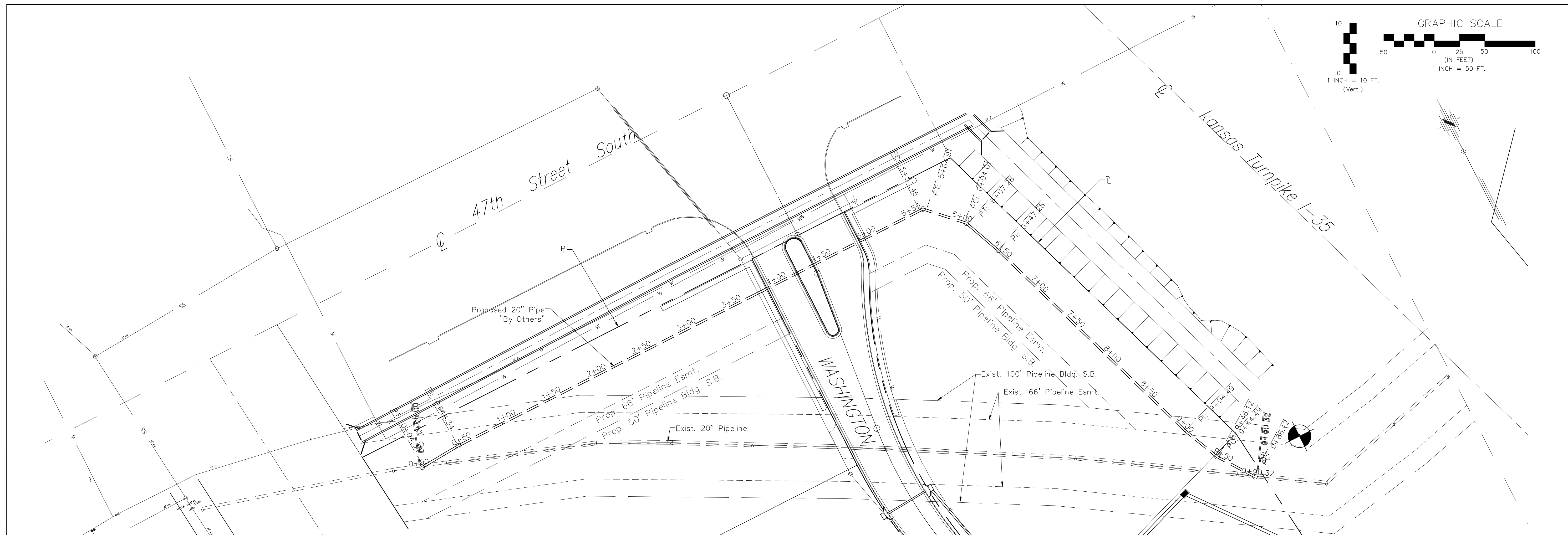
TO  
WICHITA, SEDGWICK COUNTY, KANSAS

Date of Preparation: 6/7/2012

**Attachment B**  
**Relocation Project**



SOUTHFORK COMMERCIAL ADDITION PAVING & DRAINAGE IMPROVEMENTS EXISTING SOUTHERN STAR PIPELINE CITY OF WICHITA, KANSAS JAMES L. ARMOUR, P.E. - CITY ENGINEER PROJECT NO. 448- OCA NO. ( )				
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**Attachment C**  
**New Easement Legal Description**

The centerline of a 66 foot pipeline easement described as follows:

Commencing at the Northeast Corner of the Northwest Quarter of Section 21, Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; Thence S00d38'18"E on an assumed bearing along the East line of said Northwest Quarter for a distance of 599.97 feet; Thence S89d21'45"W perpendicular to the East line of said Northwest Quarter for a distance of 221.67 feet to a point of Beginning, said point of beginning being the west right-of-way line of the Kansas Turnpike Authority as described in condemnation case A-55279; Thence continuing S89d21'45"W perpendicular to the East line of said Northwest Quarter for a distance of 9.82 feet; Thence N35d31'40"W for a distance of 38.05 feet; Thence N24d16'40"W for a distance of 40.82 feet; Thence N19d28'47"W for a distance of 257.21 feet; Thence N22d58'47"W for a distance of 41.66 feet; Thence N45d28'47"W for a distance of 45.11 feet; Thence S89d31'13"W for a distance of 516.57 feet; Thence S85d48'58"W for a distance of 44.48 feet; Thence S71d30'09"E for a distance of 46.04 feet to a point on the East line of Riverside Drainage District Easement as recorded in Deed Book 432 at page 162.

**Attachment D**  
**Construction Contract**

**Southern Star Pipeline Construction Common Contract**



**Attachment E**  
**Amended and Restated Right-of-Way Easement Agreement**

**AMENDED AND RESTATED**  
**RIGHT-OF-WAY EASEMENT AGREEMENT**

**THIS AMENDED AND RESTATED RIGHT-OF-WAY EASEMENT AGREEMENT** (this “Agreement”) is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between **SOUTHFORK INVESTMENT, L.L.C.**, a Kansas limited liability company, its heirs, legal representatives, executors, administrators, successors, grantees, and assigns (“Owner”, whether one or more), and **SOUTHERN STAR CENTRAL GAS PIPELINE, INC.** (formerly Williams Gas Pipelines Central, Inc., Williams Natural Gas Company, Northwest Central Pipeline, Inc., and Cities Service Gas Company), a Delaware corporation, its heirs, legal representatives, executors, administrators, successors, grantees, and assigns (“Grantee”, whether one or more).

**WITNESSETH THAT:**

**WHEREAS**, on September 14, 1943, B.S. McMillin and A.O. McMillin, his wife, executed in favor of Cities Services Gas Company, as grantee, a pipeline easement (the “Original Easement”) recorded in Book Misc. 165 Page 416 with the Register of Deeds Office of Sedgwick County, Kansas, over and through real estate located in Sedgwick County, Kansas as more fully described in Book Misc. 165 Page 416;

**WHEREAS**, subject to the Original Easement, Owner owns and is in possession of real estate burdened by the Original Easement, which real estate is legally described in Exhibit A attached hereto and incorporated herein (the “Burdened Property”);

**WHEREAS**, Grantee represents and warrants to Owner that Grantee is the successor-in-interest to Cities Service Gas Company;

**WHEREAS**, a 20-inch high-pressure natural gas pipeline has heretofore been laid on and across the Burdened Property in accordance with the Original Easement and such pipeline is now in active operation as shown in the depiction of the Temporary Easement Area (as defined herein) set forth in Exhibit B attached hereto and incorporated herein by this reference;

**WHEREAS**, Owner has requested Grantee to limit the Original Easement to a temporary and a permanent defined strip across the Burdened Property and Grantee is willing to limit the Original Easement across Burdened Property and to release the remainder of the Burdened Property; and

**WHEREAS**, in light of the foregoing recitals, the parties hereto desire to amend and restate the Original Agreement by this Agreement, subject to and conditioned upon the terms, conditions, covenants, promises, requirements, and agreements as specifically set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Incorporation of Recitals.** The recitals set forth at the beginning of this Agreement are hereby incorporated into this Agreement as if fully set forth herein.

2. **Amendment and Restatement.** The parties agree that this Agreement, along with the exhibits attached hereto and incorporated herein by this reference, amends, restates, and supersedes, in its entirety, the Original Agreement and that the Original Agreement remains in full force and effect as amended, restated, and superseded herein. Without limiting the generality of the foregoing, for the avoidance of doubt, Grantee hereby releases and forever quitclaims to Owner all of Grantee's right, title and interest in and to the Burdened Property, except as specifically granted by Owner to Grantee in this Agreement.

3. **Grant of Temporary Easement.** Owner does hereby grant unto Grantee, its successors and assigns, a temporary right-of-way and easement (collectively, the "**Temporary Easement**"), for, and the right, privilege, and authority to, construct, reconstruct, renew, lay, install, alter, operate, inspect, maintain, repair, remove, and replace in the same ditch or at any other place within the easement herein granted an underground pipeline, in whole or in part, and remove the underground pipeline for the transportation of oil, gas, petroleum, distillate or water, or a combination of products of any one or more of said substances, together with such drips, traps, valves, meters, meter houses, pumps, fittings, connections, other protection equipment, and such other equipment and facilities as are reasonably used or useful in connection with the use, operation, and maintenance of said pipeline (the pipeline and all permitted appurtenances are herein referred to as "**Pipeline**"), on, across, or through that certain portion of the Burdened Property situated in Sedgwick County, Kansas, and with the area of such easement being legally described in **Exhibit B** attached hereto and incorporated herein ("**Temporary Easement Area**"). The Temporary Easement shall expire ninety (90) days after relocation of the Pipeline to the Permanent Easement. Notwithstanding the foregoing, if Grantee is unable to fully restore the Temporary Easement Area as required by applicable regulations due to weather conditions, the Temporary Easement shall be extended for a reasonable length of time unless Owner waives Grantee's obligation to fully restore the Temporary Easement Area. . Grantee shall, to the extent practicable, restore the Burdened Property to its condition at the commencement of this Agreement, reasonable wear and tear and loss or casualty beyond Grantee's control excepted.

4. **Grant of Permanent Easement.** Contingent upon relocation of the Pipeline from the Temporary Easement to the Permanent Easement (as defined), Owner does hereby grant unto Grantee, its successors and assigns, a permanent right-of-way and easement (collectively, the “Permanent Easement”), for, and the right, privilege, and authority to, construct, reconstruct, renew, lay, install, alter, operate, inspect, maintain, repair, remove, and/or replace in the same ditch or at any other place within the easement herein granted an underground Pipeline, pipeline markers, cathodic test leads, and appurtenances in whole or in part, and remove the underground Pipeline for the transportation of oil, gas, petroleum, distillate or water, or a combination of products of any one or more of said substances, on, across, or through that certain portion of the Burdened Property situated in Sedgwick County, Kansas, , and with the area of such easement being legally described in Exhibit C attached hereto and incorporated herein (“Permanent Easement Area”).

5. **Definitions.** For purposes of this Agreement (a) the capitalized word “Easement” shall mean the Temporary Easement, if not then expired, and/or the Permanent Easement, if not then expired and (b) the capitalized words “Easement Area” shall mean the Temporary Easement Area, if the Temporary Easement is not then expired, and/or the Permanent Easement Area, if the Permanent Easement is not then expired.

6. **Access Easement.** The grant of the Easement shall include the right of reasonable ingress and egress from the Easement as needed to exercise the rights herein granted to Grantee. In exercising its right of ingress and egress, Grantee agrees to use reasonable methods (including the use of any roadways or driveways then located on the Burdened Property) and not to unreasonably interfere with Owner’s use of the Burdened Property unless necessary to exercise its easement rights.

7. **Owner’s Reservation of Rights of Use and Enjoyment.** Owner, subject to the terms and conditions of this Agreement, reserves the right to use and enjoy the Burdened Property to the fullest possible extent without unreasonable interference with the exercise by Grantee of the rights granted herein.

8. **Maintenance, Use, and Other Restrictions.**

(a) **Pipeline Depth.** Grantee shall bury the Pipeline a minimum of three (3) feet below the surface of the Easement Area.

(b) **Maintenance and Notice.** Grantee shall, at its sole cost and expense and at all times, keep and maintain the Pipeline in good condition and repair and keep and maintain the Easement and the Easement Area free from storage of debris, inclusive of but not limited to, excess piping, scrap metal materials, valves, meters, pumps, fittings, connections, or other materials and supplies that are not currently in use for and necessary for the operation, maintenance, repair, etc., of the Pipeline for which the grant has been provided herein. After any such repair and/or maintenance, Grantee shall, to the extent practicable, restore the Burdened Property to its condition at the commencement of this Agreement, reasonable wear and tear and loss or

casualty beyond Grantee's control excepted. If an entry on the Burdened Property by Grantee is likely to temporarily interfere with Owner's use of the Burdened Property, or otherwise have a disruptive effect on Owner, Grantee agrees, prior to entering into the Burdened Property, to notify Owner in advance of such contemplated entry, and shall reasonably describe the nature, extent, and length of such entry; provided, however, Grantee may enter the Burdened Property without notice in the event of emergency.

- (c) **Building Setback.** Owner agrees that the building setback line of the Burdened Property for permanent installation shall not be less than fifty (50) feet from the center of the Pipeline.
- (d) **Improvements.** After submission of plans by Owner to Grantee, which plans identify the proposed improvements such that they adequately allow Grantee to determine the effect of the proposed improvements on Grantee's pipeline facilities and Easement, and with prior written consent of Grantee, which consent shall not be unreasonably withheld, Owner may construct and place upon the Easement and in the Easement Area the following:
  - (i) fences, provided such fences include a gate with a minimum width of eight (12) feet or a 3 foot walk through gate; Fence post shall not be installed within 4 feet of Grantee pipeline.
  - (ii) roads, streets, curb and guttering, driveways, and/or park areas; Grantee will retain the right to cut all present and proposed driveways, highways, roads, streets, parking areas, and will have no responsibility for restoration, loss of use or access, or any other cost.
  - (iii) parking areas; provided, however, parking areas installed over the Pipeline will be designed with a twenty (20) foot by thirty (30) foot green space centered over the pipeline (10-feet either side of pipeline and 30-foot along the pipeline). Green spaces will be spaced at intervals not exceeding 40-feet in length.
  - (iv) No above ground structures or appurtenances are to be located within the Easement Area.
  - (v) shrubs, and/or other landscape plantings; provided, however, no trees or deep-rooted shrubs are permitted in the Easement Area;
  - (vi) sprinkler or irrigation systems; provided, however, sprinkler heads will not be permitted within ten (10) feet of pipeline, All crossings of pipeline with feeder lines must be hand dug; and/or
  - (vii) utilities; provided, however, Owner agrees that all underground utility lines and utility service lines, when designed, must be installed at least

twenty-four (24) inches below on direct cut installation, or sixty (60) inches below the pipeline for bored crossing of the Pipeline and utility service lines will cross the Pipeline at or near ninety (90) degrees but not along the Pipeline.

- (e) **Removal of Pipeline.** In the event that Grantee formally abandons and completely removes the Pipeline from the Burdened Property, which removal Grantee shall perform at Grantee's sole cost and expense, Grantee shall, to the extent practicable, restore the Burdened Property to its condition at the commencement of this Agreement, reasonable wear and tear and loss of casualty or other causes beyond Grantee's control excepted.

9. **Damages for Use, Occupancy, and Operation by Grantee.** To the extent of its and/or its subcontractors acts and/or omissions, Grantee agrees to pay Owner for all damages to buildings, fences, roads, streets, curbs and guttering, driveways, park areas, trees, shrubs, plants, sprinkler and/or other irrigation systems, signage, utilities, improvements, and/or such other facilities of Owner existing on the Burdened Property outside the Easement Area by reason of the construction, reconstruction, renewal, laying, installation, alteration, operation, inspection, maintenance, repair, removal, and/or replacement of the Pipeline; provided, however, Grantee shall have no payment obligation with respect to damages arising entirely due to Owner's breach of this Agreement, including, without limitation, arising from Owner's failure to comply with Grantee's Standards.

10. **Condemnation.** In the event of any condemnation of the Easement Area, in whole or in part, Grantee shall be entitled to file claims against the condemning authority for, and to receive, the value of the portion of the Easement Area so taken, business dislocation expenses and any other award and/or compensation to which Grantee may be legally entitled; provided, however, that Owner's award, dislocation expenses, and/or compensation is not reduced thereby.

11. **Notices.** All notices required or permitted under this Agreement shall be in writing and shall be deemed effective: (a) upon delivery, if delivered in person, or documented refusal to accept such delivery, whereupon such service shall be deemed complete; (b) one (1) day after delivery to Federal Express or other similar courier service, marked for next day delivery, addressed as set forth below; (c) three (3) days after deposit in United States Mail if sent by registered or certified mail, return receipt requested, addressed as set forth below; or (d) upon being sent by facsimile or electronic message transmission (including pdf), if confirmed by sending a copy by any other method specified herein, addressed as set forth below. The original notice addresses of the parties are as follows:

If to Owner:	Southfork Investment, L.L.C.
	Attn: Jay S. Maxwell
	301 N. St. Francis
	Wichita, KS 67202
	Fax: (316) 219-8600
	Email: <a href="mailto:jmaxwell2@pixius.com">jmaxwell2@pixius.com</a>

With a copy to: Hinkle Law Firm LLC  
Attn: Laura D. Fent  
8621 E. 21<sup>st</sup> St. N., Ste. 200  
Wichita, KS 67206  
Fax: (316) 631-1718  
Email: [lfent@hinklaw.com](mailto:lfent@hinklaw.com)

If to Grantee: Southern Star Central Gas Pipeline, Inc.  
Attn: General Accounting  
P.O. Box 20010  
Owensboro, KY 42304  
Fax: (270) 852-5016  
Email: [Alicia.K.Flaim@sscgp.com](mailto:Alicia.K.Flaim@sscgp.com)

With a copy to: Southern Star Central Gas Pipeline, Inc.  
Attn: General Counsel  
P.O. Box 20010  
Owensboro, KY 42304  
Fax: (270) 852-5010  
Email: [Beverly.H.Griffith@sscgp.com](mailto:Beverly.H.Griffith@sscgp.com)

A party hereto may change the name and address of the designee to whom its notice shall be sent by giving written notice of such change to the other parties hereto in the manner above provided, at least five (5) days prior to the effective date of such notice. Any legal counsel, as designated above, or by any party by written notice to the other parties, is authorized to give notices under this Agreement on behalf of its respective client.

12. **No Public Dedication.** The grant of the Easement and rights described herein are not intended and shall not be construed as dedications for public use, and all persons claiming by, through or under them shall refrain from any action which would cause such a dedication and shall take whatever steps may be necessary to avoid such dedication.

13. **Amendment.** This Agreement may be amended, modified, or terminated only by written agreement of Grantee and all of the then current owners of the Burdened Property.

14. **Counterparts.** This Agreement may be executed in counterparts, all of which together shall constitute an agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing such party's signature hereto, independently of the signature of any other party.

15. **Severability.** If any provision in this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable under applicable law, the remainder of this Agreement, or the application of such provision to other persons or

circumstances, shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16. **Binding Effect.** This Agreement and the easements, rights and obligations hereunder shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, executors, administrators, successors, grantees, and assigns forever. The benefits and burdens of this Agreement shall run with the land.

17. **Governing Law; Venue.** This Agreement shall be construed in accordance with and governed by the laws of the State of Kansas, without regard to its principles of conflict of laws. Any legal action brought to enforce or construe this Agreement shall be brought in the courts located in Sedgwick County, Kansas, and the parties hereby agree to the jurisdiction of such courts and agree that they will not invoke the doctrine of *forum non conveniens* or other similar defenses.

*Signatures follow on the next page.*



**IN WITNESS WHEREOF**, the parties have executed this Amended and Restated Right-of-Way Easement Agreement to be executed on the day and year first above written.

**SOUTHFORK INVESTMENT, L.L.C.**

**SOUTHERN STAR CENTRAL GAS  
PIPELINE, INC.**

By: \_\_\_\_\_  
Jay S. Maxwell, President

By: \_\_\_\_\_  
Robert S. Bahnick, Vice President & Chief  
Operations Officer

**ACKNOWLEDGEMENTS**

STATE OF \_\_\_\_\_ )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2013,  
by Jay S. Maxwell, as President of Southfork Investment, L.L.C., a Kansas limited liability  
company.

\_\_\_\_\_  
Notary Public

My appointment expires:

\_\_\_\_\_

STATE OF KANSAS )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2013,  
by \_\_\_\_\_, as Vice President and Chief Operations Officer of  
Southern Star Central Gas Pipeline, Inc., a Delaware corporation.

\_\_\_\_\_  
Notary Public

My appointment expires:

\_\_\_\_\_

## **EXHIBIT A**

### **Burdened Property Legal Description**

#### **BURDENED PROPERTY**

A Tract of land in the North Half of Section 21, Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas described as follows:

Commencing at the Northwest Corner of the Northwest Quarter of Section 21, Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas, thence along an assumed bearing of N89° 31' 13"E on the North line of said Northwest Quarter for 2295.74 feet to a point, thence S0° 28' 47"E for 155.50 feet to the point of beginning on the Kansas Department of Transportation right-of-way line as described in the Quit Claim Deed recorded as DOC.#/FLM-PG: 29162038, thence S19°28'47"E a distance of 393.37 feet to a point on the Kansas Department of Transportation right-of-way line as described in the Deed recorded in Deed Book 1351 at page 253, thence S 6°26'53"E a distance of 129.68 feet, thence S19°28'47"E a distance of 1465.35 feet to a point on the right-of-way line of the Kansas Turnpike Authority as described in condemnation case A-55279, thence along said Kansas Turnpike Authority right-of-way line S8°42'58"W a distance of 579.10 feet to a point on the South line of the Northeast Quarter of Section 21, Township 28 South, Range 1 East, thence S88°50'51"W along the South line of said Northeast Quarter a distance of 176.00 feet to the Southwest corner of said Northeast Quarter, thence S88°50'53"W along the South line of the Northwest Quarter of Section 21, Township 28 South, Range 1 East a distance of 792.71 feet to a point on the East line of the Riverside Drainage District easement as recorded in Deed Book 432 at page 162, thence N2°01'29"E along said Riverside Drainage District easement a distance of 263.56 feet to a point of curvature, thence continuing along the Riverside Drainage District easement along a curve to the left, having a radius of 2084.33 feet a delta angle of 10°01'53", for an arc distance of 364.93 feet to a point of tangency, thence continuing along said Riverside Drainage District easement N8°00'24"W a distance of 699.38 feet to a point, thence continuing along said Riverside Drainage District easement N6°12'07"W a distance of 1154.42 feet to a point on the Kansas Department of Transportation right-of-way line as described in the Quit Claim Deed recorded as DOC.#/FLM-PG: 29162038, thence along said Kansas Department of Transportation right-of-way line bearing N89°31'13"E a distance of 653.73 feet to the point of beginning.

Said tract contains 50.389 acres, more or less.

## **EXHIBIT B**

### **Temporary Easement Legal Description**

The centerline of a 66 foot pipeline easement described as follows:

Commencing at the Northeast Corner of the Northwest Quarter of Section 21, Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; Thence S00d38'18"E on an assumed bearing along the East line of said Northwest Quarter for a distance of 599.97 feet; Thence S89d21'45"W perpendicular to the East line of said Northwest Quarter for a distance of 221.67 feet to a point of Beginning, said point of beginning being the west right-of-way line of the Kansas Turnpike Authority as described in condemnation case A-55279; Thence continuing S89d21'45"W perpendicular to the East line of said Northwest Quarter for a distance of 9.82 feet; Thence N57d43'00"W for a distance of 191.96 feet; Thence N61d31'34"W for a distance of 209.05 feet; Thence N62d55'58"W for a distance of 261.50 feet; Thence S71d30'09"E for a distance of 209.60 feet to a point on the East line of Riverside Drainage District Easement as recorded in Deed Book 432 at page 162.

## **EXHIBIT C**

### **Permanent Easement Legal Description**

The centerline of a 66 foot pipeline easement described as follows:

Commencing at the Northeast Corner of the Northwest Quarter of Section 21, Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; Thence S00d38'18"E on an assumed bearing along the East line of said Northwest Quarter for a distance of 599.97 feet; Thence S89d21'45"W perpendicular to the East line of said Northwest Quarter for a distance of 221.67 feet to a point of Beginning, said point of beginning being the west right-of-way line of the Kansas Turnpike Authority as described in condemnation case A-55279; Thence continuing S89d21'45"W perpendicular to the East line of said Northwest Quarter for a distance of 9.82 feet; Thence N35d31'40"W for a distance of 38.05 feet; Thence N24d16'40"W for a distance of 40.82 feet; Thence N19d28'47"W for a distance of 257.21 feet; Thence N22d58'47"W for a distance of 41.66 feet; Thence N45d28'47"W for a distance of 45.11 feet; Thence S89d31'13"W for a distance of 516.57 feet; Thence S85d48'58"W for a distance of 44.48 feet; Thence S71d30'09"E for a distance of 46.04 feet to a point on the East line of Riverside Drainage District Easement as recorded in Deed Book 432 at page 162.

**Attachment F**  
**Estimated Costs**



**Line TE Re-route  
Sedgwick County, KS  
COST ESTIMATE  
Updated REV 3  
2/8/2013**

**SUMMARY**

**Scope:** Provide and install by re-routing ~ 1000 LF of 20" x 0.375" WT Pipe, including a double stopple (using existing line as the bypass) and removal of the existing line.

- Assumptions:**
1. Double Stopple, using existing line as the bypass, included in estimate.
  2. No allowance for rock trenching.
  3. Traffic controls not included.

Category				Estimated Final
Materials				\$309,616
Construction				\$551,155
Survey				\$15,840
Right - of - Way				\$5,940
Legal & Public Affairs				\$0
Environmental				\$0
Inspection				\$67,825
Engineering				\$75,600
Southern Star				\$23,483
A&G Overhead				\$52,473
AFUDC				\$27,548
<b>TOTAL</b>				<b>\$1,129,480</b>

Note: Estimate should be revisited if not accepted within 90 days or scope of work changes.

Prepared by: Mike Burnett

**Line TE Re-route  
Sedgwick County, KS  
COST ESTIMATE  
2/8/2013**

**CONTRACTS PAGE 1**[illegible]



**Line TE Re-route  
Sedgwick County, KS  
COST ESTIMATE  
2/8/2013**

**CONTRACTS PAGE 2**

Survey						Estimated Final
Survey - Topographic / Boundary						\$0
Survey - Environmental Survey						\$0
Survey - Construction Staking						\$9,900
Survey - As Builts						\$5,940
	SUB-TOTAL SURVEY					\$15,840

					Estimated Final
Environmental					
Environmental Assessment					\$0
Air Quality Permitting					\$0
Noise Study					\$0
Environmental Monitoring					\$0
	SUB-TOTAL ENVIRONMENTAL				\$0

						Estimated
Inspection		Days	Unit Cost			Final
Inspection - Chief		23	\$1,000			\$23,000
Inspection - Welding		23	\$950			\$21,850
Inspection - Environmental		10	\$950			\$9,500
Inspection - Utility		0	\$950			\$0
Inspection - X-Ray		7	\$1,925			\$13,475
Inspection - Fabrication		0	\$1,100			\$0
	SUB-TOTAL INSPECTION					\$67,825

					Estimated Final
Engineering					
Engineering, Design-Drafting					
Design, Drafting, Coordination					\$41,400
Project Management					\$27,600
Reconciliation					\$6,600
	SUB-TOTAL ENGINEERING				\$75,600

SUB-TOTAL CONTRACTS				\$159,265
TOTAL				\$159,265

**Line TE Re-route  
Sedgwick County, KS  
COST ESTIMATE  
2/8/2013**

**SSCGP LABOR**

Labor Description	Estimated Days	Estimated Day Rate				Estimated Final
Region Manager	1	\$770				\$770
Team Lead	1	\$653				\$653
Project Analyst	3	\$506				\$1,518
Administrative Specialist (District)	0	\$412				\$0
Design Engineer - Mechanical/Civil	5	\$713				\$3,565
Design Engineer - Electrical	0	\$713				\$0
Project Engineering	5	\$713				\$3,565
Project Manager	0	\$713				\$0
Safety Coordinator	0	\$550				\$0
Communication Technician	0	\$506				\$0
Specialist, Technical	0	\$605				\$0
Measurement Technician	0	\$506				\$0
Mechanical Technician	0	\$605				\$0
Operator, Equipment	0	\$495				\$0
Operator, Operations Personnel	10	\$594				\$5,940
Drafting	3	\$533				\$1,599
Land Agent	5	\$533				\$2,665
Corrosion Technician	1	\$550				\$550
Environmental	1	\$550				\$550
Witness Flow Calibration	0	\$495				\$0
Company Welder w/ Rig	0	\$605				\$0
Regulatory	0	\$495				\$0
Surveyor	0	\$550				\$0
SUBTOTAL LABOR						\$21,375

Equipment Description	Miles	Rate				Estimated Final
Truck	1650	\$0.55				\$908
						\$0
SUBTOTAL EQUIPMENT						\$908

Expenses	Days	Rate				Estimated Final
Employee Expenses	6	\$200.00				\$1,200
						\$0
SUBTOTAL EXPENSES						\$1,200

SUBTOTAL LABOR, EQUIPMENT & EXPENSES						\$23,483
TOTAL						\$23,483

**2/8/2013**

## MATERIALS PAGE 1

TOTAL

**Line TE Re-route  
Sedgwick County, KS  
COST ESTIMATE  
2/8/2013**

**INCIDENTALS**

Right-of-Way	Unit	QTY	Unit Cost		Estimated Final
Right-of-Way - Fees	Rods	0	\$30		\$0
Right-of-Way - Agent Services	Day	5	\$858		\$4,290
Right-of-Way - Site Purchases	Acre	0	\$5,000		\$0
Extra Workspace	Each	0	\$1,500		\$0
Damages	Each	3	\$550		\$1,650
AC Electrical	Each	0	\$1,500		\$0
SUB-TOTAL RIGHT-OF-WAY					\$5,940

Legal & Public Affairs					Estimated Final
Legal & Public Affairs					\$0
					\$0
					\$0
SUB-TOTAL LEGAL & PUBLIC AFFAIRS					\$0

Overheads	Enter Project Duration Month(s)				Estimated Final
A & G - 5%	3				\$52,473
AFUDC					\$27,548

**Attachment G**  
**Plans**

DEVELOPMENT AGREEMENT  
REGARDING DEVELOPMENT  
OF  
SOUTHFORK COMMERCIAL CENTER PROJECT  
AND  
RELATED PUBLIC IMPROVEMENTS

## TABLE OF CONTENTS

Recitals .....	1
Section 1 Definitions and Exhibits .....	1
Section 2 Project .....	4
Section 3 Related Public Improvements and Financing Thereof .....	5
Section 4 Additional Rights and Obligations of City .....	7
Section 5 Term and Survival .....	8
Section 6 Representations and Warranties .....	8
Section 7 General Provisions .....	9

### Exhibits

Exhibit A – Development Plan  
Exhibit B – Project Schedule  
Exhibit C – Project Site Information  
Exhibit D – Related Public Improvement Budget  
Exhibit E – Relocation and Reimbursement Agreement

## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between City of Wichita, Kansas, a body corporate and politic and a political subdivision of the State of Kansas (“**City**”), and Southfork Investment, L.L.C., a limited liability company organized under the laws of the State of Kansas (“**Developer**”).

WHEREAS, Developer has acquired a site consisting of approximately 56 acres

generally located adjacent to the South Wichita Terminal of the Kansas Turnpike at the southwest corner of I-135 and 47<sup>th</sup> Street South, bounded by Broadway on the West, 47<sup>th</sup> Street South on the North, I-135 on the east, and Custy Street on the South, together with certain other adjacent or nearby parcels, which it desires to develop as a major commercial retail and office center including sites for a hotel, bank, large retail facilities, pad sites, medical office and other health care related facilities, general office sites, parking, and other commercial uses as identified in accordance with the approved Community Unit Plan, DP-249 for Southfork Commercial Addition; and

WHEREAS, the proposed development is located in an area in which a majority of the property is a 100-year flood plain area, and is further hampered by extremely limited access, both of which will require Related Public Improvements as hereinafter defined; and

WHEREAS, City, subject to the requirements of the Kansas Cash Basis Law and Kansas Budget Law, will provide the Related Public Improvements as herein provided, and will fund all or agreed upon portions of the cost thereof through establishment of one or more redevelopment districts and the establishment of benefit districts and issuance of special assessment bonds, and Developer will finance the cost of constructing the Project through debt financing and equity capital, and will develop the Project according to the Development Plan as set forth in Exhibit A, and as amended or modified from time-to-time.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreement herein contained, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

## SECTION 1

### DEFINITIONS AND EXHIBITS

1.1 Definitions. For purposes of this Agreement, each of the following terms, when used with an initial capital letter, shall have the following meaning:

“**Act**” means sections 12-1770 through 12-1780g of the Kansas Statutes Annotated, pertaining to the creation of redevelopment districts and the use of tax increment financing.

“**Agreement**” means this Development Agreement.

“**City**” means the City of Wichita, Kansas, and whenever this Agreement requires “approval of City” or words of similar intent, that approval must come from City Council, except as otherwise expressly provided herein.

“**City Council**” means the City Council of the City of Wichita, Kansas.



**“City Improvement Expenditures”** means the funds to be provided by City for the development and construction of the Related Public Improvements, pursuant to the Related Public Improvements Budget, including any funds which may be provided to City for such purpose by any other person or public or private entity pursuant to agreements entered into by City and such persons or entities.

**“City Representative”** means the City Manager or Acting City Manager of City and his or her designee. City Representative shall have full power and authority to implement decisions of City Council and to act on behalf of City in the exercise of its rights and responsibilities under this Agreement. Developer may rely on the decisions and directions of City Representative as the directions of City, provided that any action requiring an amendment to this Agreement shall require the approval of City.

**“Developer”** shall mean Southfork Investment, L.L.C., a Kansas limited liability company.

**“Development Plan”** means the Developer’s development as generally set forth in Exhibit A. The parties anticipate that the Development Plan will be amended from time to time by Developer to reflect changes in market conditions and economic demands and that such changes are within the scope and intent of this Agreement. To the fullest extent permitted by applicable law and ordinances, City Representative is authorized to approve Development Plan changes consistent with the intent of this Agreement.

**“Force Majeure”** means war, riots, civil commotion, strikes, labor disputes, embargoes, natural disaster, acts of God or any other cause or contingency similarly beyond the control of the Party whose performance is affected thereby, but shall not include weather delays caused by rain, snow, or the like.

**“Owners”** mean, collectively, one or more owners of the Project Site, from time-to-time and **“Owner”** means each of the Owners.

**“Parties”** mean, collectively, City and Developer, and **“Party”** means either of the Parties.

**“Pipeline Relocation Work”** means that portion of the work within the Related Public Improvement designated as “Paving (Phase A)” that consists of labor, pipe and other materials and professional services required to: (i) purge and remove that portion of an existing 20-inch natural gas pipeline owned by Southern Star Central Gas Pipeline, Inc. (**“Southern Star”**) no longer required to be located in the Proposed Southfork Commercial Addition (the **“Existing Pipeline”**) and backfill; (ii) fabricate and install approximately 1000 LF of 20” x 0.375” WT Pipe, including a double stopple (using existing line as the bypass) bore street entrance (the **“New Pipeline”**) and appurtenances thereto to replace such Existing Pipeline; (iii) survey, excavate, engineer, re-route and install such New Pipeline within the New Easement; and (iv) connect the New Pipeline to the Existing Pipeline system at both ends of the New Pipeline.

**“Project”** means the development and/or redevelopment of the Project Site in accordance with the Development Plan, but excluding the Related Public Improvements.

**“Project Schedule”** means the schedule for the design, financing and construction of the Project and the Related Public Improvements as set forth in Exhibit B, which schedule may be modified or amended by Developer and City Representative.

**“Project Site”** means the land described in Exhibit C.

**“Related Public Improvements”** means the improvements which City shall finance and construct pursuant to this Agreement as set forth in Exhibit D.

**“Related Public Improvements Budget”** means the budget for development of the Related Public Improvements as set forth in Exhibit D.

**“Special Assessments”** mean the special assessment taxes assessed against the Project Site pursuant K.S.A. 12-6a01 to finance the Related Public Improvements.

**“Special Assessment Bonds”** mean the bonds which are paid wholly or in part by the Special Assessments pursuant to K.S.A. 12-6a01 *et seq.* and issued by City to finance all or part of the Related Public Improvements amortized over a fifteen (15) year period.

1.2 Other Definitions. In addition to the terms defined in Section 1.1, other terms shall have the meaning provided elsewhere in this Agreement.

1.3 Exhibits. The exhibits referred to in this Agreement and attached to it, or otherwise identified by the signing or initialing of the Parties, are incorporated in this Agreement by reference and made a part of this Agreement as though they were fully set forth in the text of this Agreement.

## SECTION 2

### PROJECT

2.1 Project. Except as specifically set forth herein, or in any exhibit attached hereto, Developer shall provide all services, equipment, materials, supplies, labor, and every article of any kind necessary or appropriate for the planning, development, construction, and furnishing of the Project, all in accordance with the Development Plan. Developer shall use Developer's commercially reasonable efforts to complete the Development Plan in accordance with the Project Schedule; provided, however, Developer may modify the Project Schedule from time-to-time, in Developer's sole discretion, including, without limitation, changing the order in which each development area (each, a "**Development Area**" and collectively, the "**Development Areas**") is developed; provided further, however Developer shall commence development of at least one (1) Development Area of the Project within five (5) years of the date of this Agreement; provided further, however, development of all Development Areas of the Project shall commence within fifteen (15) years and be completed within twenty (20) years. For purposes of this Agreement, "Development Areas" refer to the development areas labeled "A", "B", and "C" within a white circle on the Development Plan, and specifically referred to as "**Development Area A**", "**Development Area B**", and "**Development Area C**" on the Project Schedule. Developer shall be an independent contractor for all purposes, and nothing contained in this Agreement nor shall any actions of the Parties be construed to create a partnership, joint venture, or agency relationship between City and Developer. No one performing work on the Project under the direction of Developer, or under the direction of any of the contractors, shall be deemed to be an employee of City for any reason or purpose whatsoever.

2.2 Conditions Precedent to Construction of each Development Area. The following matters must be completed prior to the commencement of construction on each Development Area (as defined herein) of the Project.

- (a) Delivery of Documents. The documents listed below (or copies), if applicable, have been delivered to City Representative. When necessary, Developer shall also procure the requisite filings or approvals of such documents with appropriate officials:
  - (i) Recording of the subdivision plat for Southfork Commercial Addition for the applicable Development Area;
  - (ii) Proposed schedule for the applicable Development Area of the Project and Related Public Improvements;
  - (iii) Appropriate approved petitions and associated letters of credit for the applicable Development Area; and
  - (iv) A project plan authorizing the use of tax increment financing to reimburse costs of Related Public Improvements for the applicable

Development Area which has been adopted by the City Council in accordance with the Act.

- (b) Shortfall Payments. Developer shall have made all required Shortfall payments pursuant to Section 3.4 prior to commencing work in each Development Area.

Upon completion of the conditions precedent set forth above, City agrees that Developer shall proceed with development of the applicable Development Area in accordance with the schedule, the project plan, and the approved petitions, without further approval being required from the City, except as otherwise required by applicable law, ordinances, resolutions and applicable City bidding and procurement practices, and provisions of this Development Agreement.

### SECTION 3

#### RELATED PUBLIC IMPROVEMENTS AND FINANCING THEREOF

3.1 Related Public Improvements. City, at its sole cost and expense, will construct or cause to be constructed the Related Public Improvements in conjunction with the construction of the Project, subject to the conditions precedent and financing provisions set forth herein. Developer shall have the right, at its sole expense, to review and suggest, but shall not have any right to approve or reject the ultimate design of any of the Related Public Improvements. City Representative shall coordinate with Developer or its representatives with respect to scheduling the design, financing and construction of the Related Public Improvements.

3.2 Pipeline Relocation and Reimbursement Agreement. The Parties acknowledge and agree that, the Pipeline Relocation Work is required in order to construct the Related Public Improvements, and that the Pipeline Relocation Work will be completed in accordance with the terms, conditions, and conditions precedent of that certain Relocation and Reimbursement Agreement by and among the Parties and Southern Star, attached hereto as Exhibit E, and that the terms and conditions of such agreement are incorporated herein in their entirety by this reference.

3.3 Financing. The Related Public Improvements are expected to be financed through Special Assessment Bonds. Developer will timely submit any petitions and take any other actions on its part required in order to permit completion of City's financing for the costs of the Related Public Improvements.

3.4 Payment of Financing Shortfalls.

- (a) Special Assessment Bonds. Developer agrees to pay, in accordance with Section 3.4(b) below, each Special Assessment Bond Shortfall. For purposes of this Agreement, a "**Special Assessment Bond Shortfall**" means the amount equal to the amounts actually paid to City by the Sedgwick County Treasurer as Special Assessments minus the amounts to be paid by City as debt service on the Special Assessment Bonds actually

issued by the City, commencing in the first year in which a payment is due on the Special Assessment Bonds, if such difference results in a negative number.

- (b) Payment of Shortfalls; Expiration of Obligation. Developer agrees to pay to City each Special Assessment Bond Shortfall (each a “**Shortfall**”), if any and, as applicable, from time-to-time as set forth in this Section 3.4 (b). Each Shortfall may be paid to City in two installments, with the first installment equal to one-half the annual Shortfall amount payable within thirty (30) days of receiving written notice and documentation that there is a Shortfall. The balance of the annual Shortfall amount shall be paid within six (6) months of receipt of such written notice.
- (c) Personal Guaranty of Shortfalls. To the extent Developer is unable to pay any Shortfall, Jay S. Maxwell (“**Guarantor**”) guarantees (the “**Guaranty**”) payment of each Shortfall in the event of default by Developer in payment of a Shortfall. The Guaranty is executed and given by Guarantor at Developer’s request. Guarantor expressly does not waive any obligations City may have to mitigate the Guarantor’s damages. City agrees to provide Guarantor with timely written notice of nonpayment of any Shortfall by Developer.

3.5 Reimbursement of Developer’s and/or Guarantor’s Cumulative Shortfall Payments. At the end of each calendar year during the existence of the Special Assessments, City shall determine the amount, if any, of incremental property tax revenues actually received by City pursuant to the Act for such period. Developer and/or Guarantor, as applicable, shall be paid the entirety of such incremental property tax revenue, not to exceed to Cumulative Shortfall Payments, as defined below, within forty-five (45) days after the end of the applicable calendar year. Such payment shall serve to reimburse Developer and/or Guarantor, as applicable, in whole or in part, for the then cumulative, aggregate Shortfall payments made by Developer and/or Guarantor, as applicable, since the inception of the Special Assessments (“**Cumulative Shortfall Payments**”). In the event any Annual Excess Revenues Payment is not sufficient to reimburse Developer and/or Guarantor, as applicable, for the Cumulative Shortfall Payments, such payments shall be “rolled forward” until paid in full.

3.6 Reimbursement of Owners’ Cumulative Special Assessment Payments. At the end of each calendar year during the existence of the Special Assessments, to the extent that the City has received incremental property taxes pursuant to the Act in excess of the amount required to be paid to the Developer and/or Guarantor pursuant to Section 3.5, each Owner shall be paid such Owner’s Proportionate Share (as defined below) of such incremental property taxes within forty-five (45) days after the end of the applicable calendar year. Such payment shall serve to reimburse each Owner, in whole or in part, for cumulative, aggregate Special Assessment payments made by each Owner since the inception, and during the existence, of the Special Assessments (“**Cumulative Special Assessment Payments**”). In the event any payment made pursuant to this Section 3.5 is not sufficient to reimburse an Owner, as applicable, for such Owner’s Cumulative Special Assessment Payments, such payments shall be “rolled forward” until paid in full. For purposes of this Agreement, “**Proportionate Share**” shall mean each

Owner's Cumulative Special Assessment Payments as they bear to the aggregate Cumulative Special Assessment Payments of all Owners.

3.7 Letters of Credit Release. The City acknowledges and agrees that Developer has posted one or more letters of credit to guarantee the costs and expenses associated with City's construction of the Related Public Improvements. Notwithstanding any other provision of this Section, the letter of credit or other completion surety required in connection with the Pipeline Relocation Work and Paving (Phase A) pursuant to Charter Ordinance No. 203 shall not be released until such time as the work in Paving (Phase A) has been completed, lien free, and the City's Governing Body shall have adopted an approving Ordinance with respect to the resulting Special Assessments for such Related Public Improvement. After such time, and also as to other letters of credit, the City agrees to release such letter of credits when requested by Developer and (a) when the annual tax increment created with respect to the Project Site exceeds the amount of the annual payment for all Special Assessments assessed against the Project Site, or (b) when the total appraised value, as appraised by the Sedgwick County Appraiser, of the Project Site and improvements thereon exceeds two (2) times the value of the outstanding Special Assessments with respect to the Project Site. Notwithstanding the forgoing, if City in the future promulgates a policy or regulation that specifically addresses the release of Special Assessment letters of credit for commercial development projects, such policy or regulation shall apply hereto and supersede the applicable provisions herein.

3.8 Obligations. Each Party agrees that it shall act in good faith and not take any action that would increase the other Party's obligations and/or liability under this Agreement.

3.9 Survival; Covenants Running with Land. It is agreed that the terms and conditions of this Section 3, which, by their nature involve the performance after the end of the term of this Agreement and which cannot be ascertained to have been performed until after the end of the term of this Agreement shall survive the expiration or sooner termination of this Agreement. It is further agreed that unless amended, revoked, or released by all of the parties in interest or their successors or assigns, that the terms and conditions of this Section 3 shall be a covenant running with the land and shall be binding upon the Parties herein, their grantees, their heirs, assigns, licensees, successors, and assignees in interest.

3.10 Recording of Agreement. This Agreement shall not be recorded. A memorandum of this the terms and conditions of this Section 3 may be recorded in the official records of Sedgwick County, Kansas by either party.

## **SECTION 4**

### **ADDITIONAL RIGHTS AND OBLIGATIONS OF CITY**

4.1 Approvals. Whenever this Agreement requires the consent or approval of City Representative, City Representative, in his or her sole discretion, may instead present the question of such consent or approval to City Council for its decision. Notwithstanding the foregoing, the Parties intend that City Council approval or consent shall not be required or necessary for changes in the Development Plan which do not affect City's expenditures with

respect to Related Public Improvements, unless expressly required by this Agreement or otherwise required by law.

4.2 Development Assistance. When requested by Developer, City will provide development assistance to Developer, through its Development Assistance Office, to facilitate and expedite the issuance of building permits and compliance with other City controlled requirements relating to construction and completion of the Project.

## **SECTION 5**

### **TERM AND SURVIVAL**

5.1 Term. The term of this Agreement shall commence upon the date first above written and, unless terminated sooner as provided in this Agreement, shall end on the date that all Development Areas of the Project have been completed in accordance with the Development Plan, and the Related Public Improvements are completed. However, all obligations of the Parties which by their nature involve the performance after the end of the term of this Agreement which cannot be ascertained to have been performed until after the end of the term of this Agreement shall survive the expiration or sooner termination of this Agreement.

## **SECTION 6**

### **REPRESENTATIONS AND WARRANTIES**

6.1 City. City warrants and represents to Developer as follows:

- (a) It is a municipality and political subdivision of the State of Kansas, duly incorporated and validly existing under the laws of the State of Kansas.
- (b) It has full power and authority to execute this Agreement and consummate the transactions contemplated hereby, including payment of the reimbursements of the Pipeline Relocation Work, subject to the conditions and limitations expressed herein or otherwise imposed by law, and such payment does not violate existing Kansas law or any existing contract between Developer and the City.
- (c) Neither the execution or delivery of this Agreement and the other documents contemplated herein will conflict with or result in a breach of any of the terms, covenants and provisions of any judgment, order, injunction, decree or ruling of any court or governmental agency, body or authority to which it is subject or of any material provision of any agreement, contract, indenture or instrument to which it is a party or by which it is bound.

6.2 Developer. Developer warrants and represents to City as follows:

- (a) It is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Kansas.
- (b) It has the requisite power to execute this Agreement and the other documents contemplated by this Agreement, and to consummate the transactions contemplated thereby.
- (c) Neither the execution and delivery of this Agreement and the other documents contemplated herein, nor the construction of the Project will conflict with or result in a breach of any of the terms, covenants and provisions of any judgment, order, injunction, decree or ruling of any court or governmental agency, body or authority to which it is subject or of any material provision of any agreement, contract, indenture or instrument to which it is a party or by which it is bound, or constitutes a material breach thereunder.
- (d) For purposes of any necessary reporting under K.S.A. 46-239(c), the Developer is not a legislator or a firm of which a legislator is a member.

## **SECTION 7**

### **GENERAL PROVISIONS**

7.1 Governing Law. This Agreement and the legal relations between the Parties shall be governed by, construed and interpreted under the laws of the State of Kansas, and exclusive venue for all disputes and litigation shall be in Wichita, Kansas only.

7.2 No Waiver. No failure of a party to exercise any power given under this Agreement or to insist upon strict compliance of another Party with its obligations hereunder, and no custom or practice of the Parties at variance with the terms hereof, shall constitute a waiver of either Party's right to demand exact compliance with the terms of this Agreement.

7.3 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and no representations, inducements, promises, or agreements, oral or otherwise, between the Parties not embodied herein shall be of any force or effect.

7.4 Written Amendments. Any amendment to this Agreement shall not be binding on any of the Parties unless the amendment is in writing, is duly authorized, and is duly executed by the Parties to this Agreement.

7.5 Time of Essence. Time is of the essence of this Agreement.

7.6 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.



7.7 Headings. The headings of the sections and subsections of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

7.8 Notice. All notices required or permitted to be given under this Agreement shall be in writing and delivered either by (a) hand delivery, and considered delivered upon receipt, (b) telefacsimile, and considered delivered upon completion of transmittal, (c) certified mail, and considered delivered upon signed receipt or refusal to accept notice, or (d) nationally recognized overnight delivery service, and considered delivered the next business day after the notice is deposited with that service for delivery. For notice purposes, the Parties agree to keep each other informed at all times of their current address(es). Apart from notices required by specific provisions of this Agreement to be provided to the City Engineer, for purposes of notices or other written communications, the addresses of the Parties shall be as follows, unless notice has been given in accordance with this section of a different address:

If to City:	City Clerk City Hall, 13 <sup>th</sup> Floor 455 North Main Street Wichita, KS 67202 Fax # (316) 268-4519
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With a copy to:	City Manager City Hall, 13 <sup>th</sup> Floor 455 North Main Street Wichita, KS 67202
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And

City Attorney  
City Hall, 13<sup>th</sup> Floor  
455 North Main Street  
Wichita, KS 67202  
Fax # (316) 268-4335

If to Developer:	Southfork Investment, L.L.C. c/o Jay S. Maxwell, President 301 N. St. Francis St. Wichita, Kansas 67202 Fax # (316) 219-8600
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With a copy to:	Hinkle Law Firm LLC Attn: Laura D. Fent 8621 E. 21 <sup>st</sup> St. N., Ste. 200 Wichita, KS 67206 Fax # (316) 631-1718
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7.9 Severability. If any clause or provision of this Agreement is or becomes invalid or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity, then the remaining parts of this Agreement shall not be affected by such invalidity or unenforceability, and the remainder of this Agreement shall be enforced to the greatest extent permitted by law.

7.10 Licenses and Permits. It shall be the ultimate obligation of Developer to secure local licenses and permits required to be obtained by Developer or City with respect to construction, completion and occupancy of the Project, including any necessary building, occupancy, sewer and utility permits.

7.11 Approvals. Whenever the approval or consent of a Party is required in this Agreement, such approval or consent shall not be unreasonably withheld, conditioned, or delayed.

7.12 Including. Whenever general words or terms are followed by the word “including” or other forms of the word “include” and words of particular and specific meaning, the words “including without limitation,” and the general words shall be construed in their widest extent, and shall not be limited to persons or things of the same general kind or class as those specifically mentioned in the words of particular and specific meaning.

7.13 Binding Effect. Subject to the limitations of Section 8.16, this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective permitted successors and assigns.

7.14 Assignment. No Party may assign all or any part of its interest in this Agreement without the prior written consent of the other Party, and any such assignment without such consent shall be void. However, City may assign all or part of its interest to a city-established entity without the approval of the other Party so long as such assignee has the legal authority and duty to fulfill City’s obligations under this Agreement and, to the extent that it does not have such authority and duty, the assignment shall continue in effect but City shall remain obligated for such nonassignable or unauthorized obligations.

7.15 Cash Basis and Budget Laws. It is the intent of the Parties that the provisions of this Agreement are not intended to violate the Kansas Cash Basis Law (K.S.A. 10-1101 *et seq.*) (the “**Cash Basis Law**”) or the Kansas Budget Law (K.S.A. 79-2925) (the “**Budget Law**”). Therefore, notwithstanding anything to the contrary herein contained, City’s obligations under this Agreement are to be construed in a manner that assures that City is at all times not in violation of the Cash Basis Law or the Budget Law.

7.16 Force Majeure. If an act of Force Majeure so damages the Project that it cannot be finally completed within the project budget, then either Party may terminate this Agreement by giving written notice to the other Party. In that event, the Parties will pay their own respective costs and expenses incurred and thereafter have no further obligation to complete construction and development of the Project.

7.17 Third-Party Beneficiary. The parties hereto acknowledge and agree that Jay S. Maxwell is intended to be a third-party beneficiary under this Agreement.

*Signatures follow on the next pages.*

CITY OF WICHITA, KANSAS

By: \_\_\_\_\_  
Carl Brewer, Mayor

Attest:

By: \_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:

By: \_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

**SOUTHFORK INVESTMENT, L.L.C.**

By: \_\_\_\_\_  
Jay S. Maxwell, President

For purposes of Section 4.3(e), Jay S. Maxwell hereby acknowledges and agrees to be bound by this Agreement as of the date first above written.

\_\_\_\_\_  
JAY S. MAXWELL

## EXHIBIT A

### Development Plan





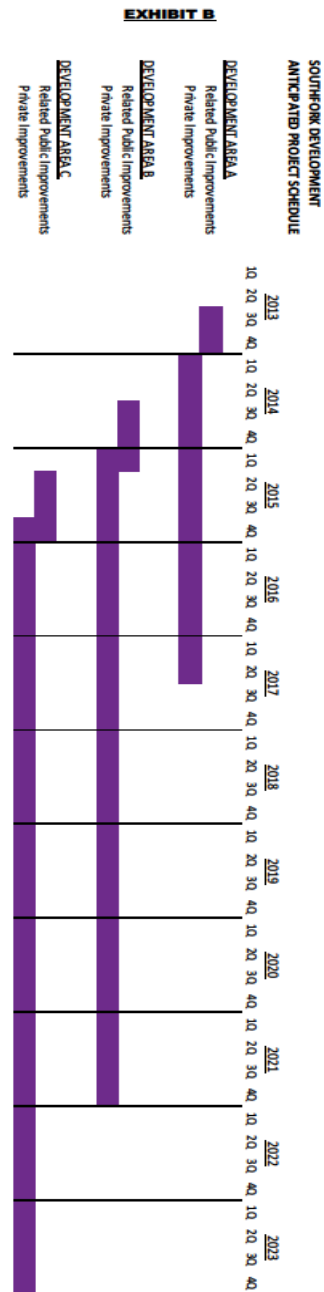
SPANGENBERG PHILLIPS TICE  
ARCHITECTURE  
15114 Main St. Ste. 201 Wichita, KS 67222  
T 316-267-4500 F 316-267-5100  
www.spharchitects.com

08 NOV 11

**SOUTHFORK ADDITION**  
WICHITA, KANSAS

## EXHIBIT B

### Project Schedule



## **EXHIBIT C**

### **Project Site Information**

#### **SOUTHFORK TIF LEGAL DESCRIPTION**

A tract of land being located in Sections 21 and 28, Township 28 South, Range 1 East, of the 6th Principal Meridian, Sedgwick County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of the Northwest 1/4 of said Section 21; thence S89°31'13"E, on an assumed bearing for a distance of 1626.43 feet to the point of intersection with the East line of the Riverside Drainage District Easement as recorded in Deed Book 432 at Page 162; thence S6°12'07"E along the East line of said Riverside Drainage District Easement for a distance of 156.28 feet to the Point of Beginning, said point being 155.50 feet South of the North line of the NW 1/4; thence N89°31'13"E parallel with the North line of said NW 1/4 for a distance of 653.73 feet to a point; thence S19°28'47"E for a distance of 393.37 feet to a point on the Kansas Department of Transportation right-of-way as described in the deed, Book 1351, Page 253; thence S6°26'53"E for a distance of 129.68 feet; thence S19°28'47"E, for a distance of 1465.35 feet to a point on the right-of-way line of the Kansas Turnpike Authority as described in Condemnation Case A-55279; thence along said Kansas Turnpike Authority right-of-way line S8°42'58"W for a distance of 579.10 feet to a point on the South line of the NE 1/4 of Section 21, Township 28 South, Range 1 East; thence S88°50'51"W along the South line of said NE 1/4 for a distance of 176.00 feet to the Southwest corner of said NE 1/4; thence S88°50'53"W along the South line of the NW 1/4 of Section 21, Township 28 South, Range 1 East for a distance of 792.71 feet to a point on the East line of the Riverside Drainage Easement as recorded in Deed Book 432 at Page 162; thence continuing West along the South line of the NW 1/4 of Section 21 to a point of intersection with the West right-of-way line of said Riverside Drainage Canal Easement, said point of intersection being on the South right-of-way line of Custy Street; thence West on the South line of Custy Street to the East right-of-way line of U.S. 81 (Broadway); thence North on the East right-of-way line of U.S.81 to a point of intersection with the South line of Florence Addition to Wichita, Sedgwick County, Kansas extended; thence East on the South line of Florence Addition extended to the Southwest corner of said Florence Addition; thence East on said South line of said Florence Addition to the Southeast corner of said Florence Addition, said Southeast corner also being a Southwest corner of Southglen 3<sup>rd</sup> Addition, Wichita, Sedgwick County, Kansas; thence East on a South line of said Southglen 3<sup>rd</sup> Addition extended to a point of intersection with the East right-of-way of said Riverside Drainage Canal Easement; thence North on said East right-of-way of said Riverside Drainage Canal Easement to the Point of Beginning.



**EXHIBIT D**

**Related Public Improvement Budget**

<u>Public Improvement</u>	<u>Amount</u>
Sanitary Sewer (phase A)	\$185,000.00
Sanitary Sewer (phase B)	\$101,000.00
Water (phase A)	\$212,081.00
Water (phase B)	\$95,000.00
Paving (phase A)	\$2,500,000.00
Paving (phase B)	\$412,000.00
Drainage (phase A)	\$1,955,000.00
Drainage (phase B)	\$1,600,000.00
Custy Bridge (phase C )	\$1,700,000.00
Custy Street (phase C)	\$1,673,000.00
Water (phase C)	\$80,000.00
Sanitary (phase C)	\$250,000.00
Total	<hr/> \$10,763,081.00

**EXHIBIT E**

**Relocation and Reimbursement Agreement**

**City of Wichita  
City Council Meeting  
April 16, 2013**

**TO:** Mayor and City Council

**SUBJECT:** Douglas Avenue Bus Facility Improvements in Downtown (Districts I and VI)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** New Business

**Recommendation:** Approve the design.

**Background:** The City of Wichita received a grant from Federal Transit Administration (FTA) Bus Livability Initiative to fund 80 percent of the cost of designing and constructing bus facility improvements along Douglas Avenue from Main Street to Washington Avenue. The FTA awarded the City a grant in the amount of \$1,080,000 to fund the bus facility improvements listed in the table below. The grant requires a 20 percent local match. The \$270,000 required local match is funded from the 2011-2020 Capital Improvement Program.

<b>Project Budget FTA Bus Livability Initiative</b>			
<b>Description</b>	<b>Grant Amount</b>	<b>Local Match</b>	<b>Total</b>
Eight bus shelters, approximately every two blocks	\$348,000	\$87,000	\$435,000
Electronic information signage at bus shelters	\$128,000	\$32,000	\$160,000
Benches, trash cans, landscaping, and streetscaping	\$52,000	\$13,000	\$65,000
Relocate angled parking from Douglas to Emporia	\$68,000	\$17,000	\$85,000
Sidewalk extensions (bulb-outs) at intersections	\$297,000	\$74,250	\$371,250
ADA-accessible ramps at each street intersection	\$21,800	\$5,450	\$27,250
ADA-accessible on-street parking	\$25,600	\$6,400	\$32,000
Bicycle parking for 175 bicycles	\$39,600	\$9,900	\$49,500
Signalized pedestrian crosswalk	\$60,000	\$15,000	\$75,000
Pedestrian wayfinding signage	\$40,000	\$10,000	\$50,000
<b>Total</b>	<b>\$1,080,000</b>	<b>\$270,000</b>	<b>\$1,350,000</b>

**Analysis:** On August 21, 2012, the City Council authorized initiation of the project. On February 12, 2013, the City Council approved an agreement for design services with Law Kingdon Architecture. A project team consisting of representatives of the design team, City staff, and the City Council led the design process, which included two input meetings with property and business owners along the corridor and correspondence with the property owners adjacent to the bus shelter locations. The proposed design that was developed by the project team is attached. The proposed design has been recommended for approval by the Transit Advisory Board, Design Council, District Advisory Board I, District Advisory Board VI, and Access Advisory Board. At the time this report was prepared, the proposed design was scheduled for consideration by the Wichita Downtown Development Corporation Board and the Historic Preservation Board.

**Financial Considerations:** The Downtown Parking project in the 2011-20 Capital Improvement Program has \$3.85 million in General Obligation Bonds budgeted in 2013. On August 21, 2012, the City Council approved allocating \$270,000 from this project as the required local match for the \$1,080,000 FTA grant.

**Legal Considerations:** There are no legal considerations.

**Recommendation/Actions:** It is recommended that the City Council approve the design of the project.

**Attachments:** Design Presentation

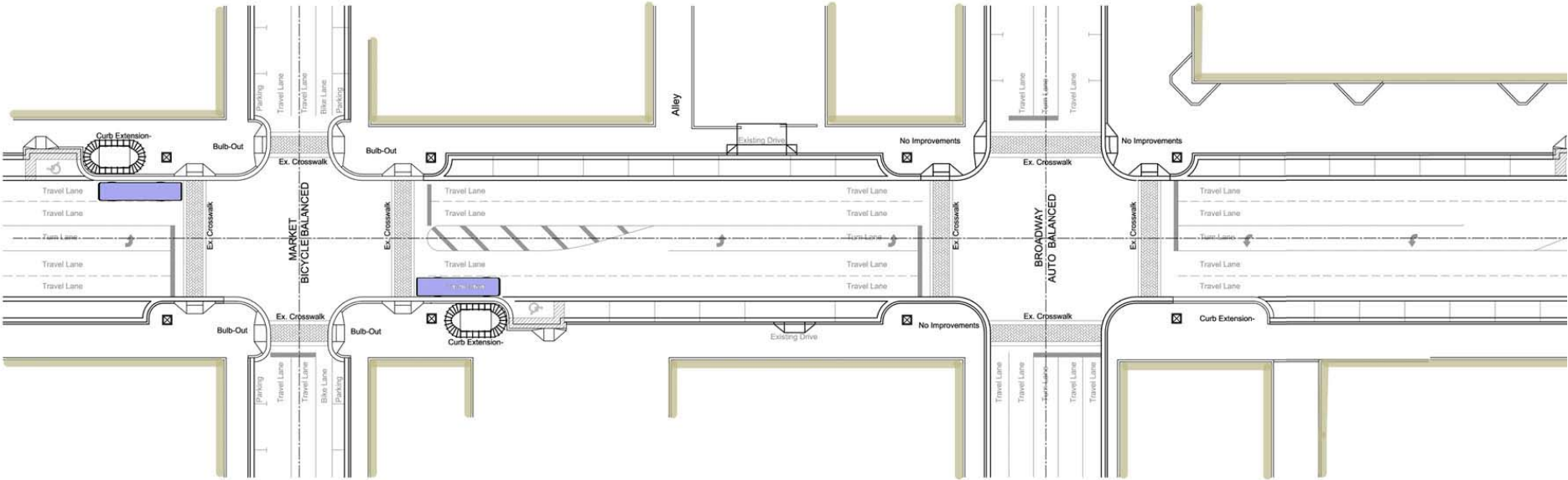
# Douglas Avenue Transit Improvements



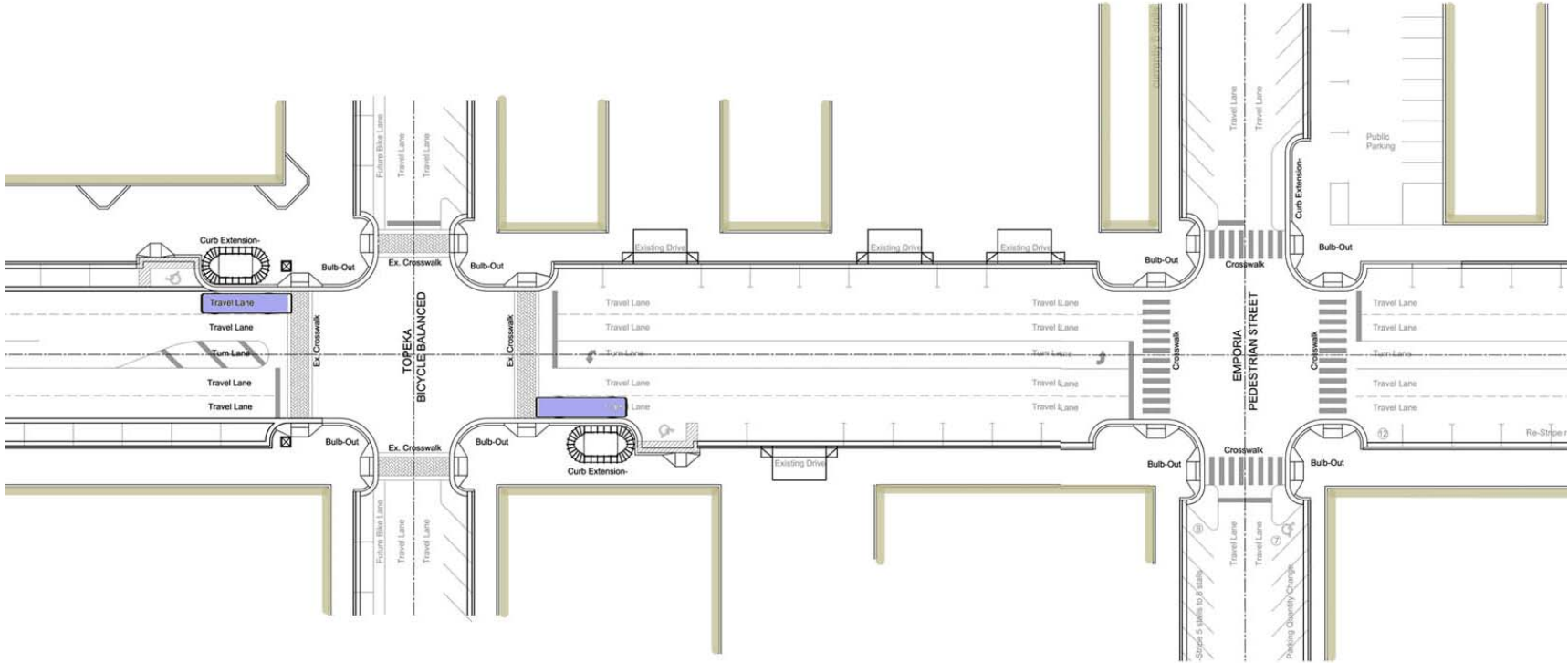
## Project Scope:

- Eight bus shelters spaced approximately every two blocks.
- Electronic information signage at each related to bus arrival and departure
- Benches, trash receptacles, landscaping and other amenities at each shelter.
- Removal of angled parking between Emporia and St. Francis and addition of angled parking on Emporia.
- Sidewalk extensions at intersections with Market, Topeka, Emporia, St. Francis, Mead, Rock Island and Mosley.
- New ADA-accessible ramps at each intersection.
- An ADA-accessible parking stall at each bus shelter.
- Bicycle parking for 175 bicycles.
- Signalized crosswalk at Old Town.
- Pedestrian wayfinding signage along the corridor.

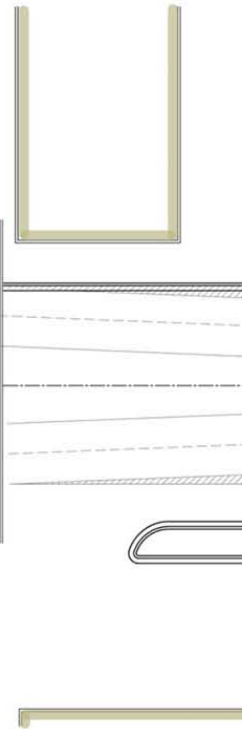
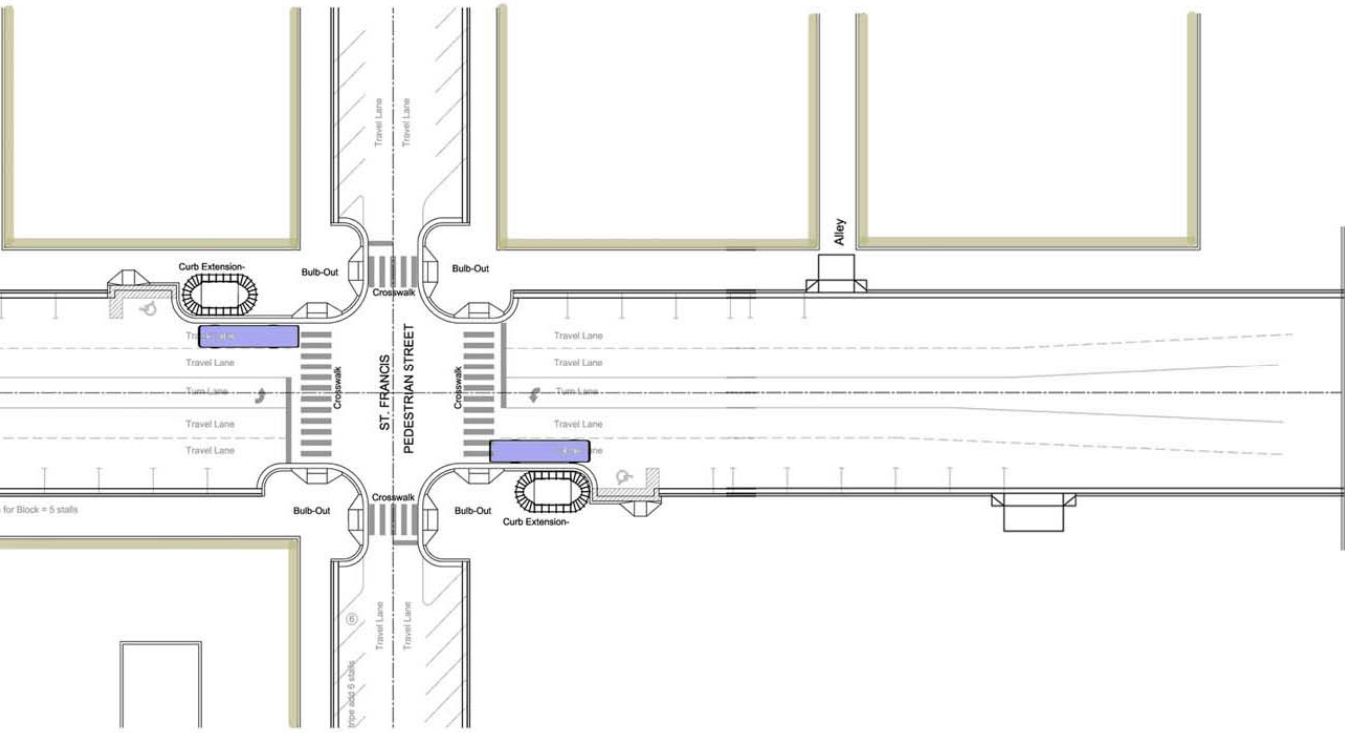
# Douglas Avenue Transit Improvements



# Douglas Avenue Transit Improvements

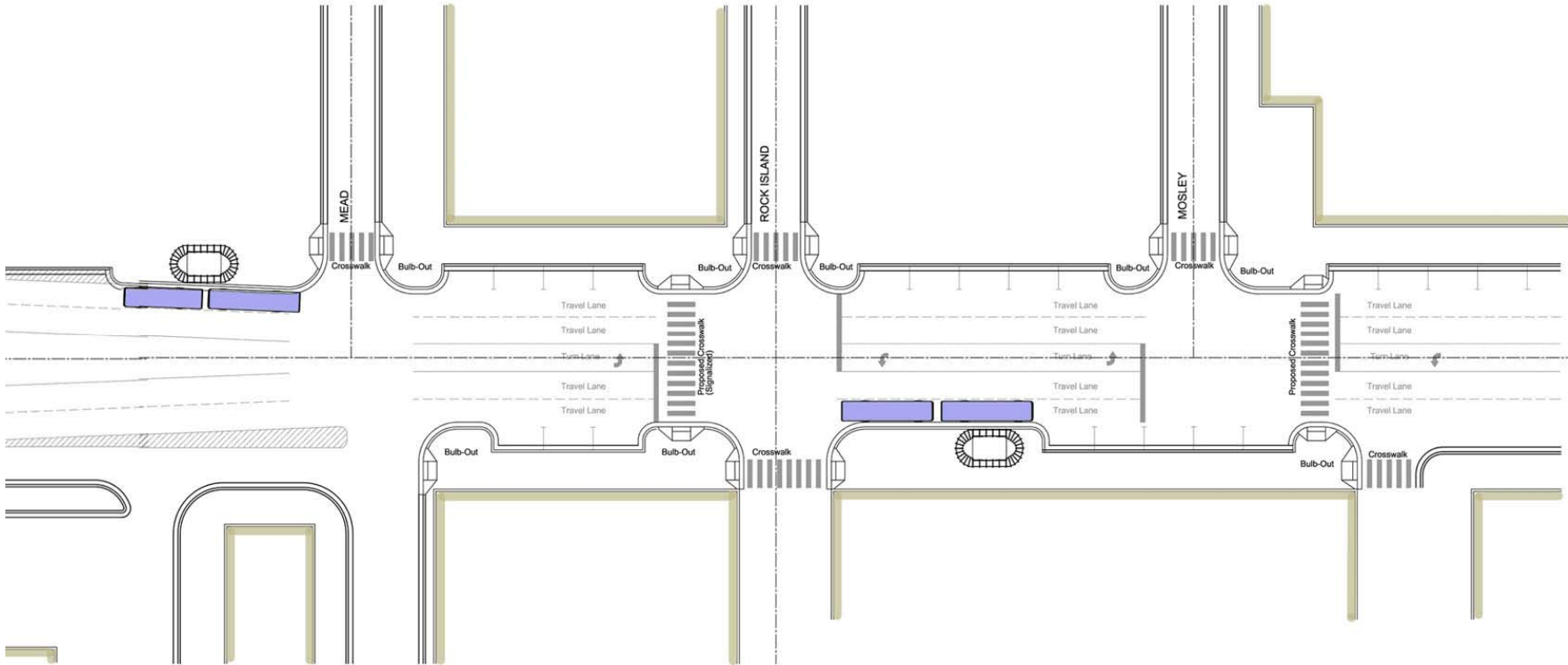


# Douglas Avenue Transit Improvements

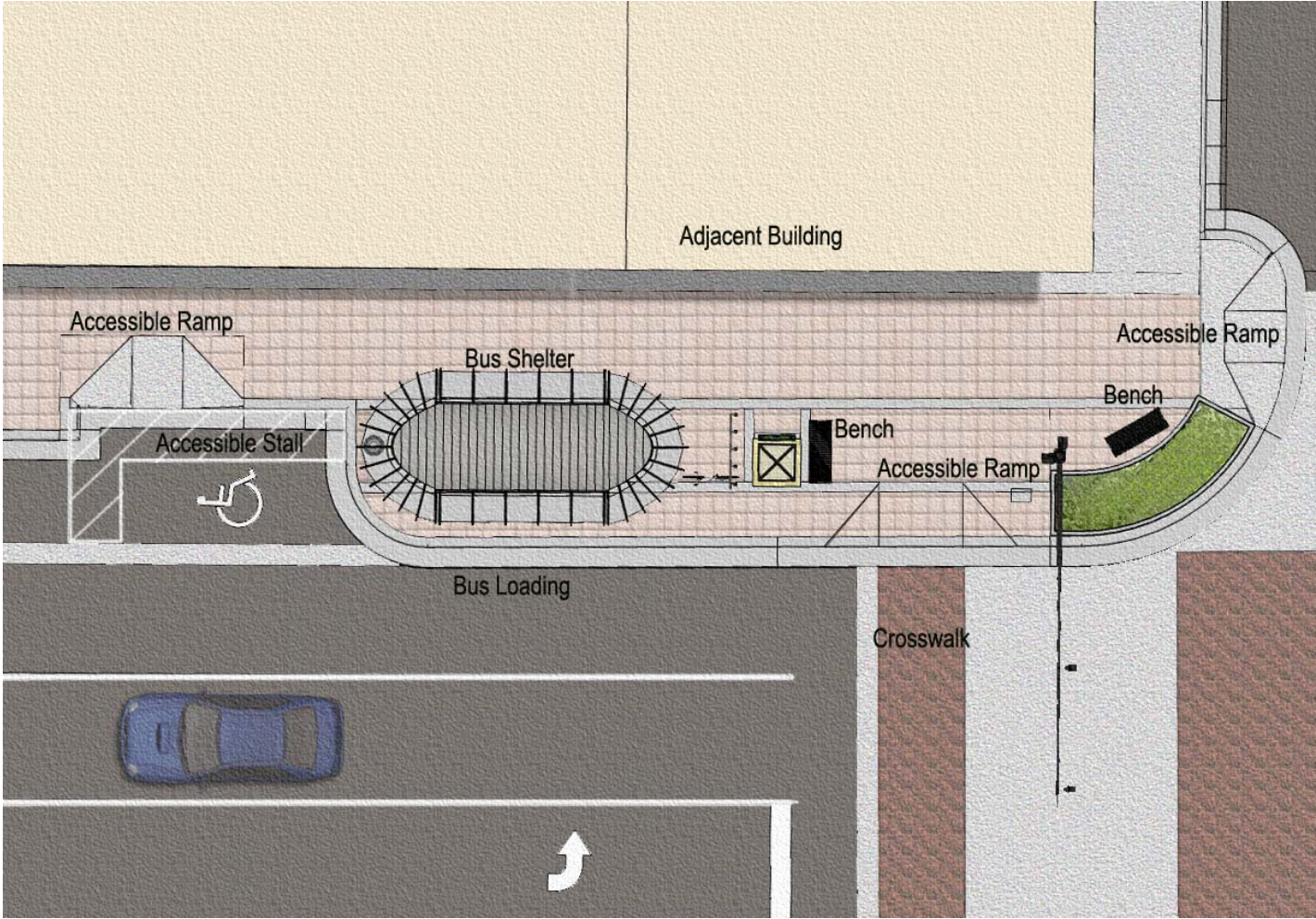




# Douglas Avenue Transit Improvements

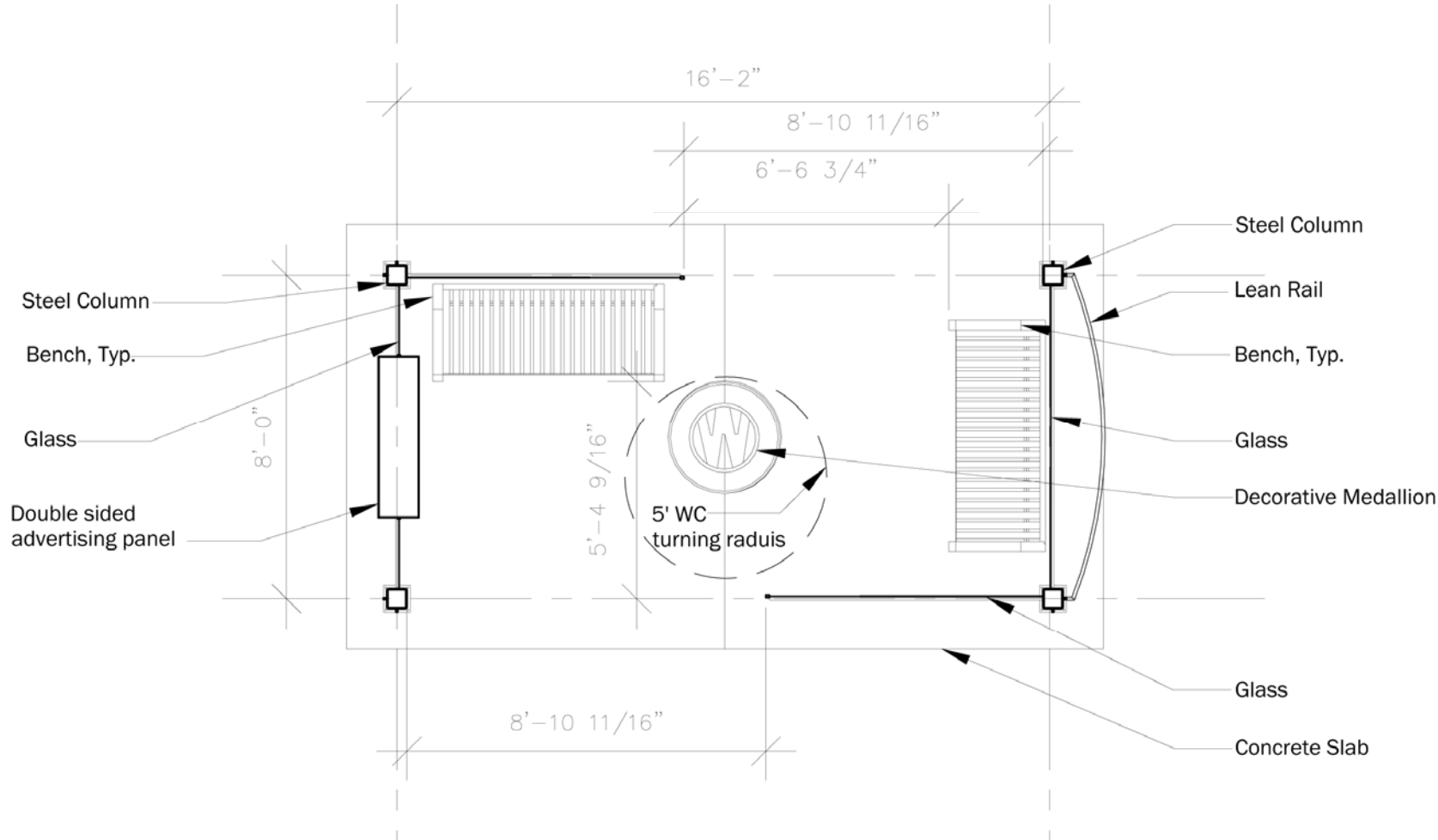


# Douglas Avenue Transit Improvements



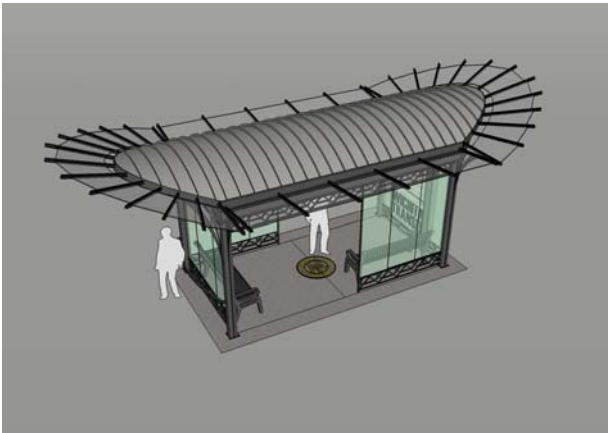
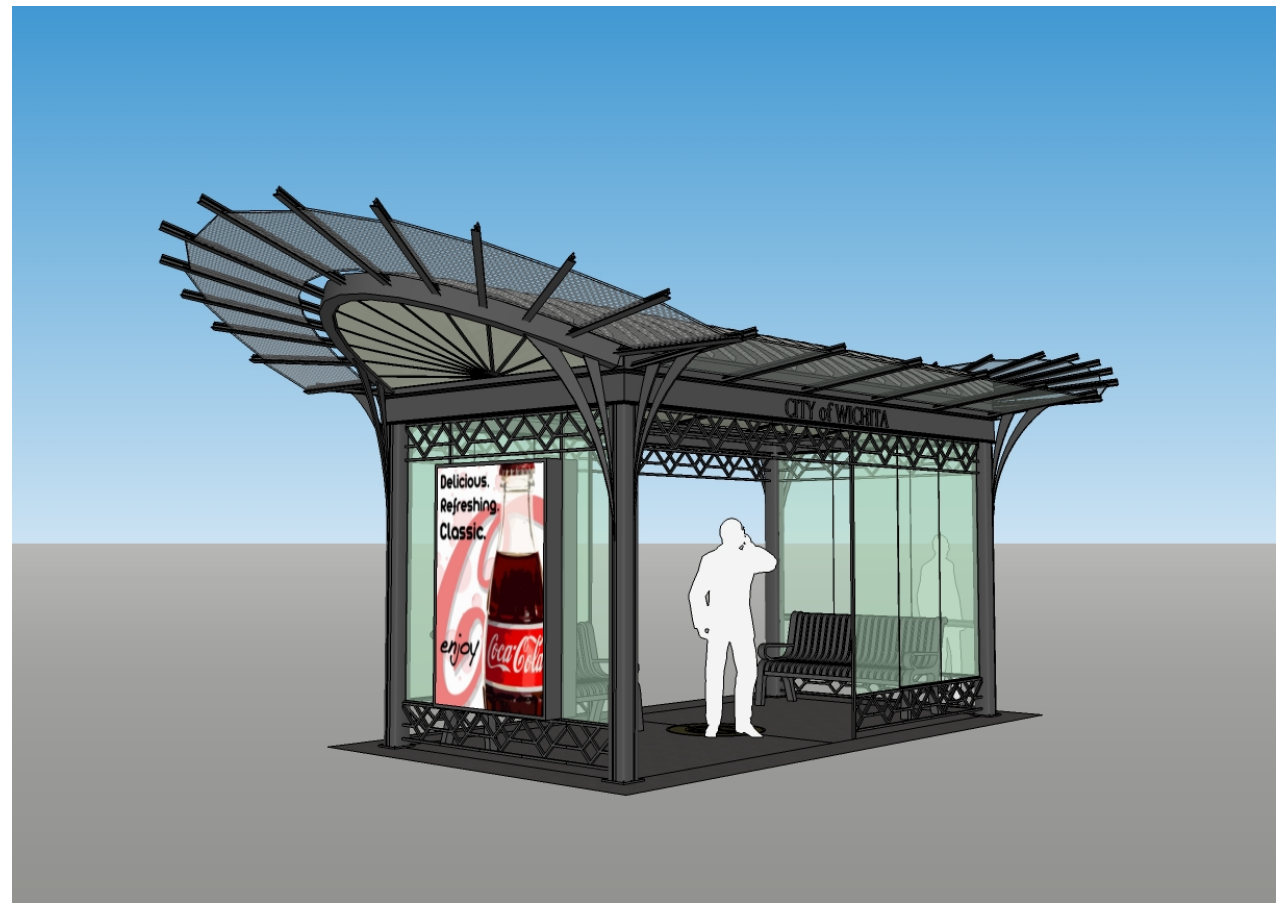
# Douglas Avenue Transit Improvements

## Bus Shelter Design Concept



# Douglas Avenue Transit Improvements

## Bus Shelter Design Concept





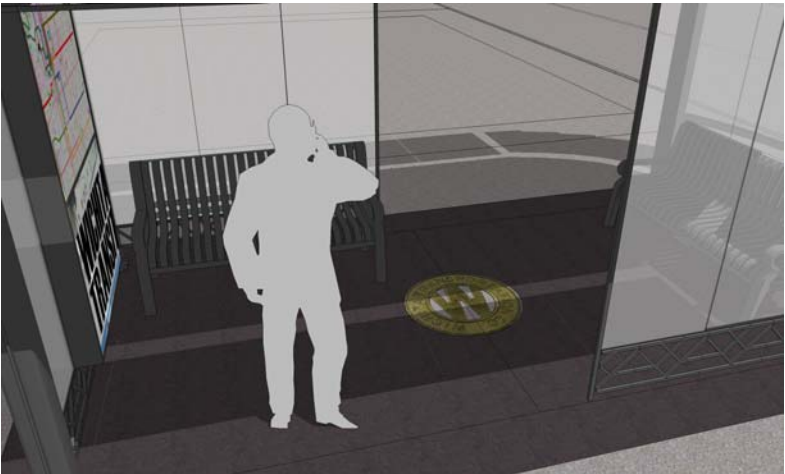
# Douglas Avenue Transit Improvements

## Bus Shelter Design Concept

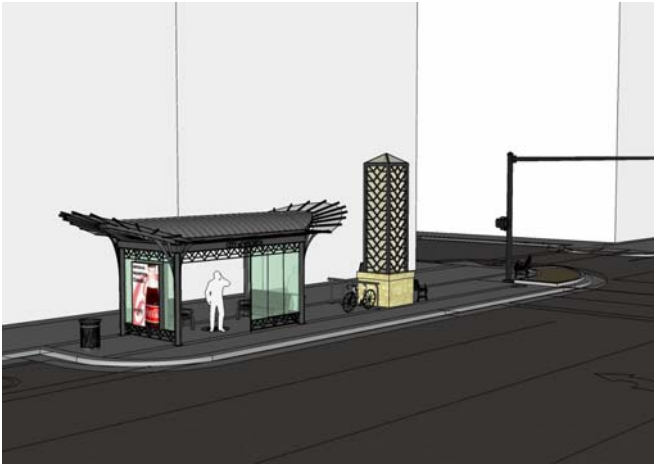
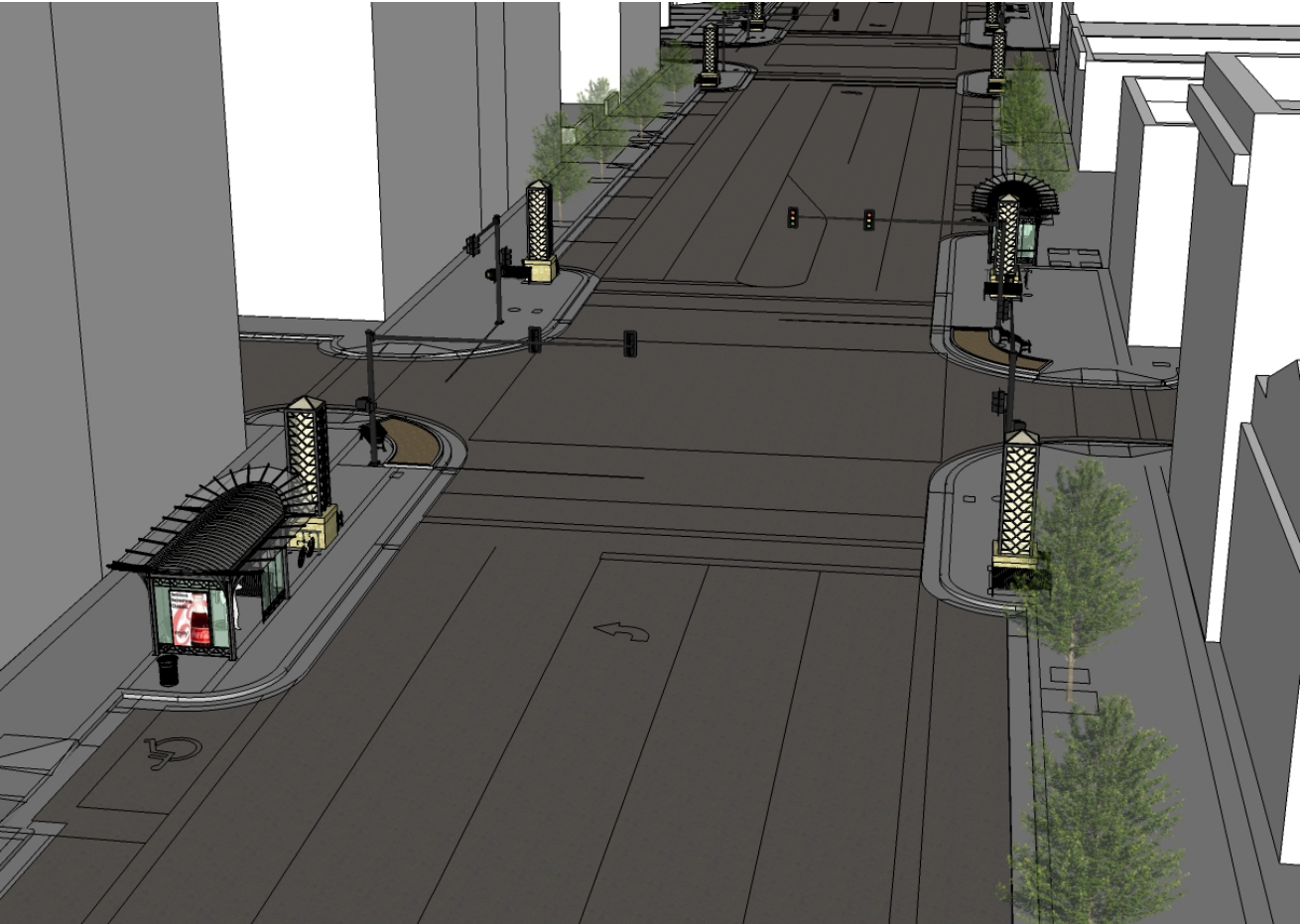


# Douglas Avenue Transit Improvements

## Bus Shelter Design Concept



# Douglas Avenue Transit Improvements Market Intersection



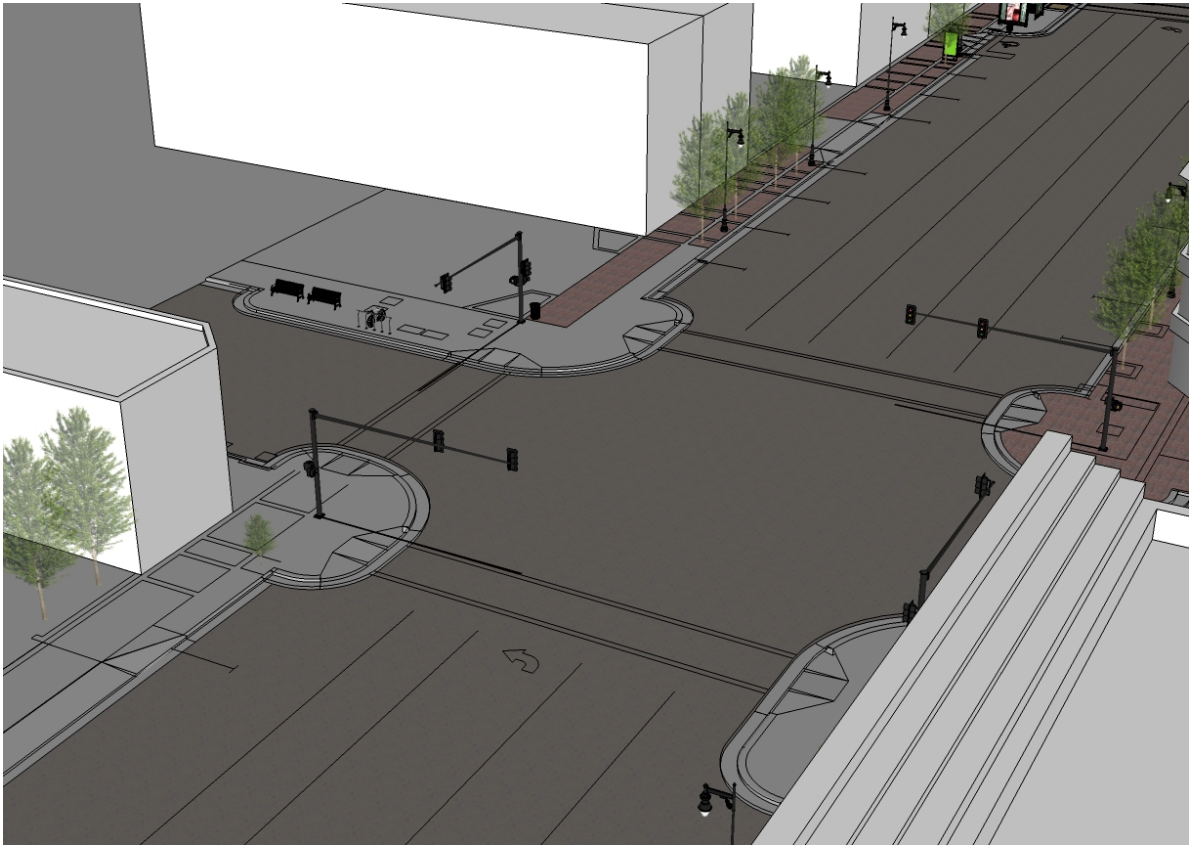


# Douglas Avenue Transit Improvements Broadway & Topeka Intersections





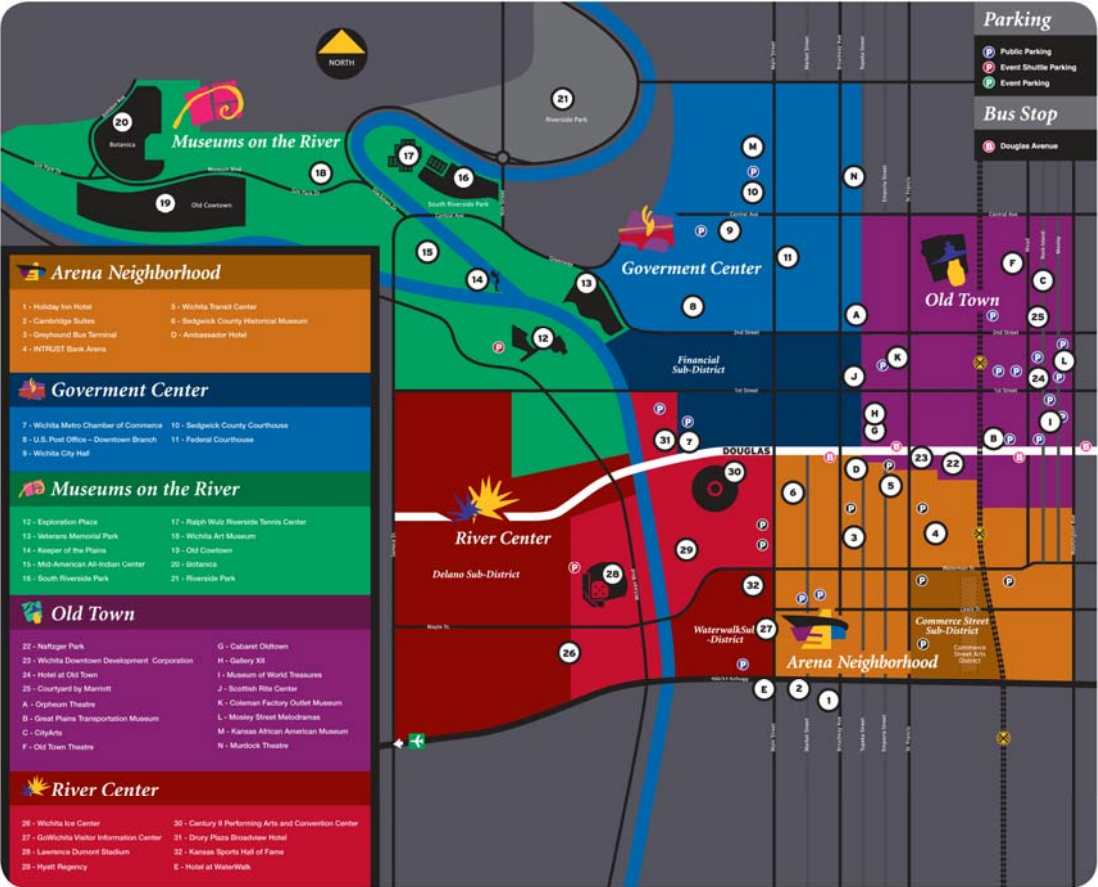
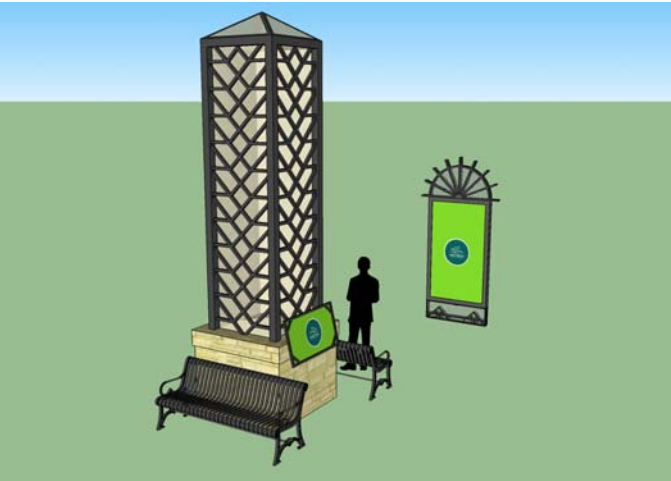
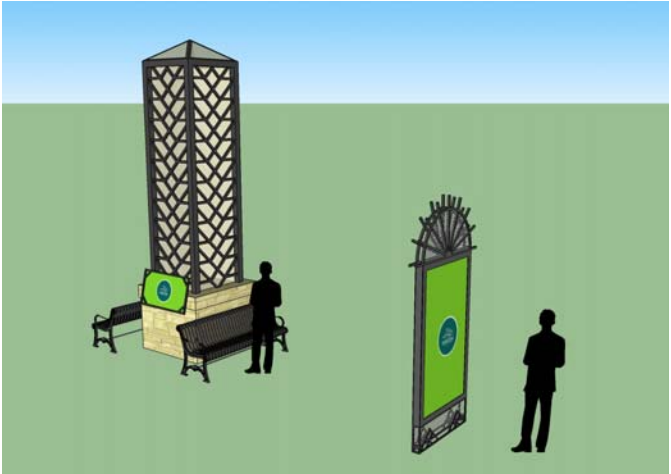
# Douglas Avenue Transit Improvements Emporia & St. Francis Intersections



# Douglas Avenue Transit Improvements Old Town



# Douglas Avenue Transit Improvements Wayfinding





# Douglas Avenue Transit Improvements Historic Interpretation



GARDNER | DESIGN | U.S.A. |



\*\*\*\*\* CORPORATE / BRAND IDENTITY

FEBRUARY 15, 2019 2:44 PM PAGE 1

**City of Wichita  
City Council Meeting  
April 16, 2013**

**TO:** Mayor and City Council

**SUBJECT:** Wichita Employees' Retirement and Police and Fire Retirement Systems  
Actuarial Valuation Reports as of December 31, 2012

**INITIATED BY:** Department of Finance

**AGENDA:** New Business

---

**Recommendations:** Receive and file the Actuarial Reports and approve the 2014 employer contribution rates.

**Background:** The Board of Trustees for both the Wichita Employees' Retirement (WER) System and the Police and Fire (P&F) Retirement System employ Cavanaugh Macdonald Consulting, LLC to serve as technical advisor/consultant, supplying the Boards with required actuarial services and information pertaining to the Retirement Systems. The actuary recommends the mortality, interest rates, and other required actuarial tables; prepares an annual valuation of assets and liabilities; makes an annual determination of the amount of contributions necessary to meet requirements for annuities and benefits, certifying the results to the Boards; and reviews the operating experience of the Retirement Systems as an evaluation of the adequacy of the recommended actuarial standards.

**Analysis:** The funding objective of the WER and P&F Retirement Systems is to establish and receive contributions, expressed as percents of active member pensionable payroll, which will remain approximately level from year to year, minimizing increases for future generations of citizens. This funding objective should be attainable, as long as the benefits and the demographic make-up of members does not change materially, and actuarial assumptions are realized. The Retirement Systems are supported by: (1) member contributions; (2) City contributions; and (3) investment income from the Retirement Systems' assets. Key results of the actuarial valuations are summarized below.

1. The actuary's valuations state that for the fiscal year beginning January 1, 2014, the City's required contribution to the WER System is 13.2% and the required contribution to the P&F System is 22.4%. Contribution rates are stated as a percent of active member pensionable payroll. These rates are based on the benefit provisions and active member contribution rates in effect on December 31, 2012. Of the total dollar amount contributed to WER, 4.7% of the City contributions for Plan 3 (a defined contribution plan) are allocated to Plan 3 individual members' accounts.
2. The funded ratios (liabilities covered by assets) and employer (City) contribution rates for the WER and P&F Retirement Systems over the past five (5) years are shown below:

**Wichita Employees' Retirement System**

<u>Period</u> <u>Ending 12/31</u>	<u>Budget</u> <u>Year</u>	<u>Funded</u> <u>Ratio</u>	<u>Employer</u> <u>Contribution Rate</u>
2008	2010	100.1%	8.4%
2009	2011	96.3%	10.2%
2010	2012	95.5%	10.6%
2011	2013	92.5%	12.6%
2012	2014	91.0%	13.2%

Police and Fire Retirement System

<u>Period</u> <u>Ending 12/31</u>	<u>Budget</u> <u>Year</u>	<u>Funded</u> <u>Ratio</u>	<u>Employer</u> <u>Contribution Rate</u>
2008	2010	95.1%	20.8%
2009	2011	92.4%	22.0%
2010	2012	92.7%	22.0%
2011	2013	90.8%	22.8%
2012	2014	90.5%	22.4%

3. In summary, the actuary's reports reflect that the aggregate experience of the Retirement Systems during the twelve (12) months ended December 31, 2012 resulted in a net loss for WER, due mainly to the negative investment experience which was deferred and carried over from 2008 and 2011, and a small net gain for P&F which was comprised of negative investment experience carried over from 2008 and 2011 and positive experience on system liabilities. The actual market value return for 2012 was 13.3%. Despite strong returns in 2009, 2010 and 2012, the deferred losses from 2008 and 2011 resulted in an increase of .6% in the City's required contribution rate for 2014 for WER, while the P&F contribution rate decreased .4%.

**Financial Considerations:** In conjunction with the actuary's recommendation and in keeping with the City's current policy of maintaining level contribution rates, the City's contribution rates, expressed as a percent of active member pensionable payroll, are increased from 12.6% to 13.2% for WER, and decreased from 22.8% to 22.4% for P&F for the fiscal year 2014.

**Legal Considerations:** Under the Ordinances creating the two pension systems, the City is required to make the actuarially required contributions to the Retirement Systems.

**Recommendation/Actions:** It is recommended that the City Council receive and file the Wichita Employees' Retirement and Police and Fire Retirement Systems' Actuarial Valuation Reports as of December 31, 2012 as submitted, and approve the 2014 employer retirement fund contribution rates.

**Attachments:** Wichita Employees' Retirement System Actuarial Valuation as of December 31, 2012 and Police and Fire Retirement System of Wichita, Kansas, Actuarial Valuation as of December 31, 2012.



**Cavanaugh Macdonald**  
CONSULTING, LLC

*The experience and dedication you deserve*

## **Police and Fire Retirement System of Wichita, Kansas**

**Actuarial Valuation as of December 31, 2012**



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<b><u>Section</u></b>	<b><u>Page</u></b>
Actuarial Certification Letter	
Section I – Executive Summary	1
Section II – Scope of the Report	9
Section III – Assets	11
Table 1 – Analysis of Net Assets at Market Value	12
Table 2 – Summary of Changes in Net Assets	13
Table 3 – Development of Actuarial Value of Assets	14
Section IV – System Liabilities	15
Table 4 – Present Value of Future Benefits (PVFB)	16
Table 5 – Actuarial Liability	17
Table 6 – Present Value of Accrued Benefits	18
Section V – Employer Contributions	19
Table 7 – Derivation of Unfunded Actuarial Liability Contribution Rate	20
Table 8 – Derivation of Normal Cost Rate	21
Table 9 – Employer Contribution Rates	22
Table 10 – Historical Summary of City Contribution Rates	23
Table 11 – Derivation of System Experience Gain/(Loss)	24
Section VI – Accounting Information	25
Table 12 – Required Supplementary Information Schedule of Funding Progress	26
Table 13 – Required Supplementary Information Schedule of Employer Contributions	27
Table 14 – Solvency Test	28
<b><u>Appendices</u></b>	
A. Summary of Membership Data	29
B. Summary of Benefit Provisions	49
C. Actuarial Cost Method and Assumptions	53
D. Glossary of Terms	59





# Cavanaugh Macdonald

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April 1, 2013

The Board of Trustees  
Police and Fire Retirement System of Wichita, Kansas  
City Hall, 12<sup>th</sup> Floor  
455 N. Main Street  
Wichita, KS 67202

Dear Members of the Board:

In accordance with your request, we have completed an actuarial valuation of the Police and Fire Retirement System of Wichita, Kansas as of December 31, 2012. The major findings of the valuation are contained in this report, including the contribution rate for fiscal year 2014. The plan provisions, actuarial assumptions, and actuarial methods are the same as the prior valuation.

This is the first valuation prepared by Cavanaugh Macdonald Consulting, LLC (CMC). As part of our transition work, we replicated the December 31, 2011 actuarial valuation. While results were well within acceptable limits, there was a difference in the normal cost rate (23.6% vs. 24.2%). The actuarial liability, calculated by CMC, was higher than that shown in the December 31, 2011 actuarial valuation report (\$567.3 million vs. \$562.5 million). These differences are neither unusual nor significant. It is very common for differences in valuation results to occur due to the use of different pension valuation software.

In preparing this report, we relied, without audit, on information (some oral and some in writing) supplied by the System's staff. This information includes, but is not limited to, plan provisions, member data, and financial information. We found this information to be reasonably consistent and comparable with information for the last valuation that was provided by the prior actuary. The valuation results depend on the integrity of the data provided. If any of this information is inaccurate or incomplete, our valuation results may be different and our calculations may need to be revised.

Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period or additional cost or contribution requirements based on the plan's funded status); and changes in plan provisions or applicable law. Due to the limited scope of our assignment, we did not perform an analysis of the potential range of future measurements.

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Actuarial computations presented in this report are for purposes of determining the actuarial contribution rates for funding the System. Actuarial computations presented in this report under GASB Statements No. 25, 27, and 50 are for purposes of fulfilling financial accounting requirements. The computations prepared for these two purposes may differ as disclosed in our report. The calculations in the enclosed report have been made on a basis consistent with our understanding of the System's funding requirements and goals, and of GASB Statements No. 25, 27 and 50. Determinations for purposes other than meeting these requirements may be significantly different from the results contained in this report. Accordingly, additional determinations may be needed for other purposes.

The consultants who worked on this assignment are pension actuaries. CMC's advice is not intended to be a substitute for qualified legal or accounting counsel.

This is to certify that the independent consulting actuaries are members of the American Academy of Actuaries and have experience in performing valuations for public retirement plans, that the valuation was prepared in accordance with principles of practice prescribed by the Actuarial Standards Board, and that the actuarial calculations were performed by qualified actuaries in accordance with accepted actuarial procedures, based on the current provisions of the retirement plan and on actuarial assumptions that are internally consistent and reasonably based on the actual experience of the System. The Board of Trustees has the final decision regarding the appropriateness of the assumptions and adopted them as indicated in Appendix C.

We respectfully submit the following report and look forward to discussing it with you.

Sincerely,

A handwritten signature in blue ink that reads 'Patrice Beckham'.

Patrice A. Beckham, FSA, EA, FCA, MAAA  
Principal and Consulting Actuary

A handwritten signature in blue ink that reads 'Brent A. Banister'.

Brent A. Banister, PhD, FSA, EA, FCA, MAAA  
Chief Pension Actuary



## SECTION I: EXECUTIVE SUMMARY

---

This report presents the results of the December 31, 2012 actuarial valuation of the Police and Fire Retirement System of Wichita, Kansas (WPF). The primary purposes of performing a valuation are to:

- estimate the liabilities for the benefits provided by the System,
- determine the employer contribution rates required to fund the System on an actuarial basis,
- disclose certain asset and liability measures as of the valuation date,
- monitor any deviation between actual plan experience and experience projected by the actuarial assumptions, so that recommendations for assumption changes can be made when appropriate,
- analyze and report on any significant trends in contributions, assets and liabilities over the past several years.

There have been no changes in the benefit provisions, actuarial assumptions, or actuarial methods from the last valuation.

This is the first valuation prepared by Cavanaugh Macdonald Consulting, LLC (CMC). As part of our transition work, we replicated the December 31, 2011 actuarial valuation. While results were well within acceptable limits, there was a difference in the normal cost rate (23.6% vs. 24.2%). The actuarial liability, calculated by CMC, was higher than that shown in the December 31, 2011 actuarial valuation report (\$567.3 million vs. \$562.5 million). These differences are neither unusual nor significant. It is very common for differences in valuation results to occur due to the use of different pension valuation software.

The System had an unfunded actuarial liability of \$51.5 million in the December 31, 2011 valuation, which has increased to an unfunded actuarial liability of \$55.7 million in the December 31, 2012 valuation. A detailed analysis of the change in the unfunded actuarial liability from December 31, 2011 to December 31, 2012 is shown on page 3. The actuarial valuation results provide a “snapshot” view of the System’s financial condition on December 31, 2012. The valuation results reflect net favorable experience for the past plan year as demonstrated by an unfunded actuarial liability that was lower than expected based on the actuarial assumptions used in the December 31, 2011 actuarial valuation. Unfavorable experience on the actuarial value of assets resulted in a loss of \$7.3 million and favorable experience on liabilities resulted in a gain of \$8.5 million. Net experience was an actuarial gain of \$1.2 million.

The System uses an asset smoothing method in the valuation process. As a result, the System’s funded status and the actuarial contribution rate are based on the actuarial (smoothed) value of assets – not the market value. On an actuarial value basis, the rate of investment return for calendar year 2012 was 6.3%. Because this return is less than the actuarially assumed rate of return of 7.75%, an actuarial loss occurred on investments. Under the asset smoothing method used in the valuation process, a portion of this investment loss is deferred to future years. On a market value basis, the rate of return on assets was 13.3%. This return reduced the deferred (unrecognized) investment loss from \$50 million in the December 31, 2011 valuation to \$22 million in the December 31, 2012 valuation. Actual returns over the next few years will determine when and how the \$22 million of deferred investment loss is recognized. For example, a return of 12.4% on the market value of assets in 2013 would be necessary to attain a return of 7.75% on the actuarial value of assets and eliminate the deferred losses.

In the following pages the change in the assets, liabilities, and contributions of the System over the last year are discussed in more detail.



## SECTION I: EXECUTIVE SUMMARY

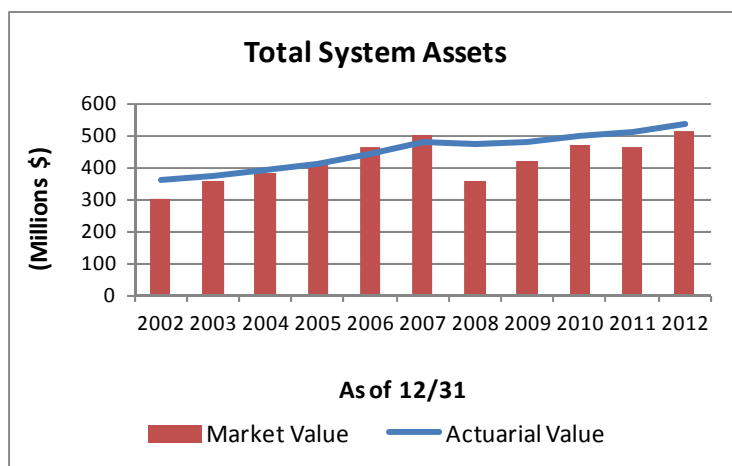
### ASSETS

As of December 31, 2012, the System had total assets of \$511.5 million when measured on a market value basis. This was an increase of \$50.7 million from the December 31, 2011 figure of \$460.8 million. The market value of assets is not used directly in the calculation of the City's contribution rate. An asset valuation method, which smoothes the effect of market fluctuations, is used to determine the value of assets used in the valuation, called the "actuarial value of assets". The actuarial value of assets is equal to the expected value (calculated using the actuarial assumed rate of 7.75%) plus 25% of the difference between the market and expected value. See Table 3 on page 12 for a detailed development of the actuarial value of assets. The rate of return on the actuarial value of assets was 6.3%. Due to a higher than expected return on the market value of assets in 2012, the actuarial value of assets is only 4% higher than the actual market value as compared to 11% in last year's valuation.

The components of the change in the market and actuarial value of assets for the System (in millions) are set forth below:

	Market Value (\$M)	Actuarial Value (\$M)
Assets, December 31, 2011	\$460.8	\$510.9
- City and Member Contributions	18.7	18.7
- Benefit Payments and Refunds	(28.2)	(28.2)
- Investment Income (net of expenses)	60.2	32.0
Assets, December 31, 2012	\$511.5	\$533.4

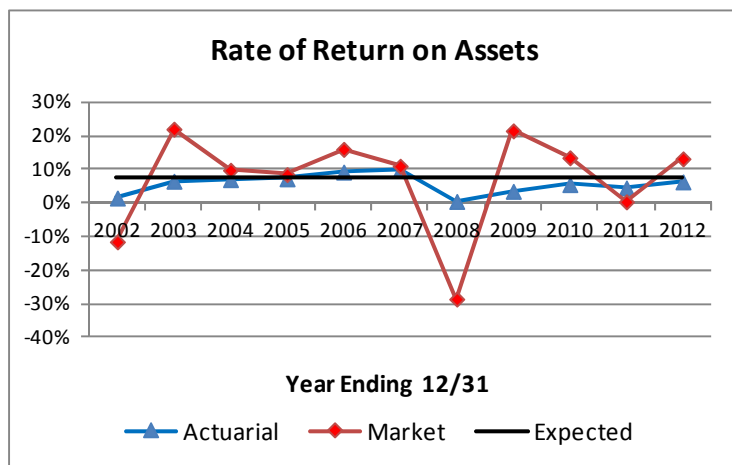
The unrecognized investment losses represent about 4% of the market value of assets. Unless offset by future investment gains or other favorable experience, the recognition of the \$22 million loss is expected to have an impact on the future funded ratio and actuarial contribution requirement. If the deferred losses were recognized immediately in the actuarial value of assets, the funded percentage would decrease from 91% to 87% and the actuarially determined contribution rate for the City would increase from 22.4% to 24.7%.



*The actuarial value of assets has both been greater than and less than the market value of assets during this period, which is expected when using a smoothing method.*



## SECTION I: EXECUTIVE SUMMARY



*The rate of return on the actuarial value of assets has been less volatile than the market value return, which is the main reason for using an asset smoothing method.*

### LIABILITIES

The actuarial liability is that portion of the present value of future benefits that will not be paid by future employer normal costs or member contributions. The difference between this liability and asset values at the same date is referred to as the unfunded actuarial liability (UAL), or (surplus), if the asset value exceeds the actuarial liability. The unfunded actuarial liability will be reduced if the employer's contributions exceed the employer's normal cost for the year, after allowing for interest earned on the previous balance of the unfunded actuarial liability. Benefit improvements, experience gains and losses, and changes in actuarial assumptions and procedures will also impact the total actuarial liability and the unfunded portion thereof.

The Actuarial Liability and Unfunded Actuarial Liability for the System as of December 31, 2012 are:

Actuarial Liability	\$589,073,375
Actuarial Value of Assets	<u>533,380,618</u>
Unfunded Actuarial Liability/(Surplus)	\$ 55,692,757

Between December 31, 2011 and December 31, 2012, the change in the unfunded actuarial liability for the System was as follows (in millions):

Change in Unfunded Actuarial Liability	(\$M)
UAL, December 31, 2011	\$51.5
+ Normal cost for year	15.4
+ Assumed investment return for year	4.6
- Actual contributions (member + city)	18.7
- Assumed investment return on contributions	0.7
= Expected Unfunded Actuarial Liability, December 31, 2012	52.1
+ Change in Actuary	4.8
+ Change from assumption changes	0.0
= Expected UAL after changes	56.9
Actual UAL, December 31, 2012	55.7
Experience gain/(loss)	\$1.2
(Expected UAL - Actual UAL)	

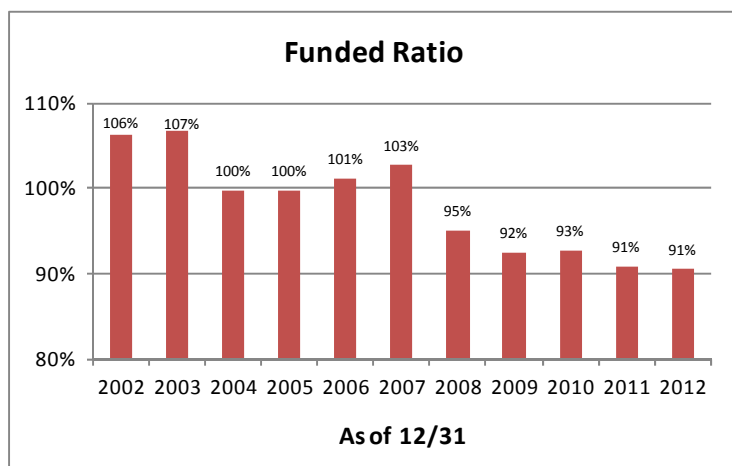


## SECTION I: EXECUTIVE SUMMARY

The experience gain for the 2012 plan year of \$1.2 million reflects the combined impact of an actuarial loss of about \$7.3 million on System assets (actuarial value), and an actuarial gain of about \$8.5 million on System liabilities.

Analysis of the unfunded actuarial liability strictly as a dollar amount can be misleading. Another way to evaluate the unfunded actuarial liability and the progress made in its funding is to track the funded status, the ratio of the actuarial value of assets to the actuarial liability. This information for recent years is shown below (in millions). Historical information is shown in the graph following the chart.

	12/31/2008	12/31/2009	12/31/2010	12/31/2011	12/31/2012
Actuarial Liability (\$M)	\$496.6	\$519.9	\$536.9	\$562.5	\$589.1
Actuarial Value of Assets (\$M)	472.3	480.6	497.9	510.9	533.4
Funded Ratio (Actuarial Value)	95.1%	92.4%	92.7%	90.8%	90.5%
Funded Ratio (Market Value)	71.7%	81.2%	87.1%	81.9%	86.8%



*Over the past decade, the funded status of the System has both improved and declined at times. The assumption changes and actuarial loss in 2004 caused the funded ratio to decline sharply. The strong asset performance in 2006 and 2007 returned the System to a surplus funded situation. The significant decline in the stock market in 2008 again dropped the funded ratio. The rebound of the stock market in 2009, 2010 and 2012 has helped stabilize the System's funded status.*

As mentioned earlier in this report, due to the asset smoothing method there is currently about a \$22 million difference between the actuarial value and the market value of assets. To the extent there is not favorable investment experience to offset the deferred losses, the \$22 million deferred loss will be recognized in future years and the System's funded status will decline. The System's funded status will continue to be heavily dependent on investment experience.

### CONTRIBUTION RATES

Generally, contributions to the System consist of:

- A "normal cost" for the portion of projected liabilities allocated to service of members during the year following the valuation date, by the actuarial cost method, and
- An "unfunded actuarial liability or (surplus) contribution" for the excess of the portion of projected liabilities allocated to service to date over the actuarial value of assets.

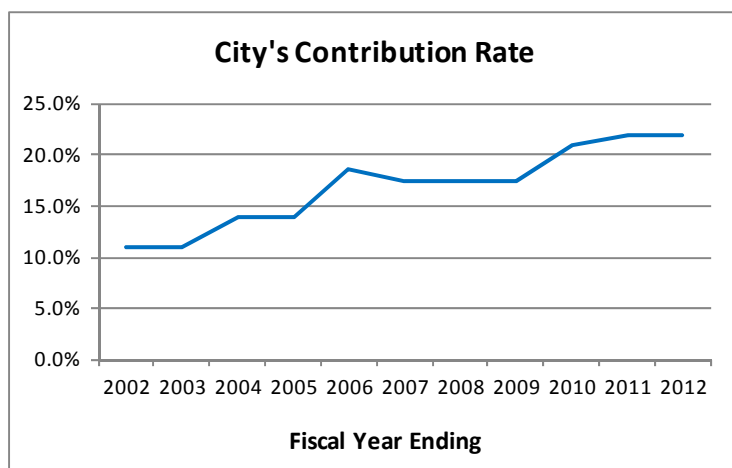


## SECTION I: EXECUTIVE SUMMARY

Contribution rates are computed with the objective of developing costs that are level as a percentage of covered payroll. The contribution rate for fiscal year 2014 is based on the December 31, 2012 actuarial valuation results.

As of December 31, 2012, the actuarial liability exceeds the actuarial value of assets so an unfunded actuarial liability (UAL) exists. In accordance with State statutes, the UAL is to be amortized over a rolling 20-year period. Amortization of the UAL results in a contribution to fund the UAL in addition to the normal cost rate. This valuation indicates the City's contribution should be 22.4% of pay (16.5% employer normal cost rate plus 5.9% UAL contribution).

A summary of the City's historical contribution rate for the System is shown below:



*As the System's funded status has trended down over the past ten years, the City's contribution rate has trended upward. The City's contribution rate is 22.8% and 22.4% for the Fiscal Years Ending 12/31/2013 and 12/31/2014, respectively.*

### COMMENTS

The System does not use the actual market value of assets in developing the actuarial contribution rates, but utilizes an asset valuation method to smooth out the peaks and valleys in investment returns from year to year. Under the asset valuation method, the actuarial value of assets is determined as 75% of the expected value (using the actuarial assumed rate of return) and 25% of the actual market value. The return on the market value of assets for 2012 was 13.3% which helped to offset some of the deferred investment losses that would have been recognized in the current valuation. However, even with the strong return on market value of assets in 2012, the return on the actuarial value of assets was 6.3%. As a result, the System experienced an actuarial loss on assets of \$7.3 million. This loss was more than offset by the actuarial gain on liabilities, largely the result of lower than expected salary increases during 2012. The overall experience was a small actuarial gain of \$1.2 million.

The deferred investment loss (actuarial value less market value of assets) has decreased to \$22 million from \$50 million in last year's valuation. Absent investment gains in future years, the deferred investment loss of \$22 million will eventually be reflected in the actuarial value of assets in future years. While the use of an asset smoothing method is a common procedure for public retirement systems, it is important to identify the potential impact of the deferred investment experience. This is accomplished by comparing the key valuation results from the December 31, 2012 actuarial valuation using both the actuarial and market value of assets (see table on next page).





	Using Actuarial Value of Assets	Using Market Value of Assets
Actuarial Liability	\$589,073,375	\$589,073,375
Asset Value	\$533,380,618	\$511,488,454
Unfunded Actuarial Liability	\$55,692,757	\$77,584,921
Funded Ratio	90.5%	86.8%
Normal Cost Rate	23.5%	23.5%
UAL Contribution Rate	<u>5.9%</u>	<u>8.2%</u>
Total Contribution Rate	29.4%	31.7%
Employee Contribution Rate	<u>(7.0%)</u>	<u>(7.0%)</u>
Employer Contribution Rate	22.4%	24.7%

The strong investment performance in calendar year 2012, along with a gain on System liabilities, resulted in the City's contribution rate holding steady at 22.4% instead of increasing which would have been expected based on last year's valuation results. The actuarial contribution rate to be paid by the City has been, and will continue to be, heavily impacted by investment returns from year to year. Despite the use of an asset smoothing method, actual returns that are significantly different than the 7.75% assumption tend to create volatility in the City's contribution rate.





**SUMMARY OF PRINCIPAL RESULTS**

	12/31/2012 <u>Valuation</u>	12/31/2011 <u>Valuation</u>	% <u>Change</u>
<b>1. PARTICIPANT DATA</b>			
Number of:			
Active Members			
Police	622	623	(0.2%)
Fire	462	465	(0.6%)
Total	1,084	1,088	(0.4%)
Retired Members and Beneficiaries	921	911	1.1%
Inactive Members	38	35	8.6%
Total Members	2,043	2,034	0.4%
Annual Valuation Payroll of Active Members			
Police	\$ 37,773,221	\$ 38,455,658	(1.8%)
Fire	25,987,924	25,727,491	1.0%
Total	\$ 63,761,145	\$ 64,183,149	(0.7%)
Annual Retirement Payments for Retired Members and Beneficiaries	\$ 25,226,232	\$ 24,030,607	5.0%
<b>2. ASSETS AND LIABILITIES</b>			
Total Actuarial Liability	\$ 589,073,375	\$ 562,487,887	4.7%
Market Value of Assets	511,488,454	460,840,745	11.0%
Actuarial Value of Assets	533,380,618	510,946,217	4.4%
Unfunded Actuarial Liability/(Surplus)	\$ 55,692,757	\$ 51,541,670	8.1%
Funded Ratio	90.5%	90.8%	(0.3%)
<b>3. EMPLOYER CONTRIBUTION RATES AS A PERCENT OF PAYROLL</b>			
Normal Cost	23.5%	24.2%	(2.9%)
Member Financed	(7.0%)	(7.0%)	0.0%
Employer Normal Cost	16.5%	17.2%	(4.1%)
Amortization of Unfunded Actuarial Liability or (Surplus)	5.9%	5.6%	5.4%
Employer Contribution Rate	22.4%	22.8%	(1.8%)



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## SECTION II: SCOPE OF THE REPORT

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This report presents the actuarial valuation of the Police and Fire Retirement System of Wichita, Kansas (WPF) as of December 31, 2012. This valuation was prepared at the request of the System's Board of Trustees. The report is based on plan provisions and actuarial assumptions that are unchanged from last year.

Please pay particular attention to our cover letter, where the guidelines employed in the preparation of this report are outlined. We also comment on the sources and reliability of both the data and the actuarial assumptions upon which our findings are based. Those comments are the basis for our certification that this report is complete and accurate to the best of our knowledge and belief.

A summary of the findings resulting from this valuation is presented in the previous section. Section 3 describes the assets and investment experience of the System. Sections 4 and 5 describe how the obligations of the System are to be met under the actuarial cost method in use. Section 6 includes the information required for the financial reporting standards established by the Governmental Accounting Standards Board (GASB).

This report includes several appendices:

- Appendix A      Schedules of valuation data classified by various categories of members.
- Appendix B      A summary of the current benefit structure, as determined by the provisions of governing law on the valuation date.
- Appendix C      A summary of the actuarial methods and assumptions used to estimate liabilities and determine contribution rates.
- Appendix D      A glossary of actuarial terms.



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### **SECTION III: ASSETS**

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In many respects, an actuarial valuation can be thought of as an inventory process. The inventory is taken as of the actuarial valuation date, which for this valuation is December 31, 2012. On that date, the assets available for the payment of benefits are appraised. The assets are compared with the liabilities of the System. The actuarial process then leads to a method of determining the contributions needed by members and the employer in the future to balance the System assets and liabilities.

#### **MARKET VALUE OF ASSETS**

The current market value represents the “snapshot” or “cash-out” value of System assets as of the valuation date. In addition, the market value of assets provides a basis for measuring investment performance from time to time. At December 31, 2012, the market value of assets for the System was \$511 million. Table 1 is a comparison, at market values, of System assets as of December 31, 2012, and December 31, 2011, in total and by investment category. Table 2 summarizes the change in the market value of assets from December 31, 2011 to December 31, 2012.

#### **ACTUARIAL VALUE OF ASSETS**

Neither the market value of assets, representing a “cash-out” value of System assets, nor the book values of assets, representing the cost of investments, may be the best measure of the System’s ongoing ability to meet its obligations.

To arrive at a suitable value for the actuarial valuation, a technique for determining the actuarial value of assets is used which dampens swings in the market value while still indirectly recognizing market values. This methodology, first adopted for the December 31, 2002 valuation, smoothes market experience by recognizing 25% of the difference between expected value (based on the actuarial assumption) and market value. Table 3 shows the development of the actuarial value of assets (AVA) as of December 31, 2012.



**TABLE 1**  
**Analysis of Net Assets at Market Value**

	As of December 31, 2012		As of December 31, 2011	
	<u>Amount</u> <u>(\$ Millions)</u>	<u>% of</u> <u>Total</u>	<u>Amount</u> <u>(\$ Millions)</u>	<u>% of</u> <u>Total</u>
Cash and Equivalents	\$ 0.5	0.1%	\$ 0.4	0.1%
Government Securities	37.5	7.3	30.9	6.7
Corporate Debt	46.2	9.0	46.7	10.1
Mortgage Backed Securities	40.3	7.9	43.3	9.4
Pooled Funds	86.8	17.0	81.8	17.8
Domestic Equity	174.6	34.1	158.6	34.4
International Equity	83.4	16.3	71.6	15.5
Real Estate	17.9	3.5	16.2	3.5
Timber	10.6	2.1	4.9	1.1
Commodities	12.5	2.4	12.4	2.7
Securities Lending Collateral Pool	31.5	6.2	44.2	9.6
Other	0.2	0.0	0.2	0.0
Receivables	11.7	2.3	13.7	3.0
Liabilities	(42.2)	(8.2)	(64.1)	(13.9)
<b>Total</b>	<b>\$ 511.5</b>	<b>100.0%</b>	<b>\$ 460.8</b>	<b>100.0%</b>



TABLE 2

**Summary of Changes in Net Assets  
For Year Ended December 31, 2012**

(Market Value)

1. Market Value of Assets as of December 31, 2011	\$ 460,840,745
2. Contributions:	
a. Members	\$ 4,543,523
b. City	14,113,014
c. Total	\$ 18,656,537
3. Investment Income:	
a. Interest and Dividends	\$ 12,353,419
b. Net Appreciation in Fair Value	50,553,717
c. Commission Recapture	19,678
d. Net Securities Lending Income	215,820
e. Total	\$ 63,142,634
4. Expenditures:	
a. Refunds of Member Contributions	\$ 357,192
b. Benefits Paid:	
(1) Pension and Death Benefits	24,558,618
(2) BackDROP Payments	3,245,820
c. Administrative Expenses	404,050
d. Investment Expenses	2,585,782
e. Total	\$ 31,151,462
5. Net Change [2(c) + 3(e) - 4(e)]	\$ 50,647,709
6. Market Value of Assets as of December 31, 2012 [(1) + (5)]	\$ 511,488,454



TABLE 3

**Development of Actuarial Value of Assets  
as of December 31, 2012**

1. Actuarial Value of Assets as of December 31, 2011	\$ 510,946,217
2. Actual Contributions/Disbursements	
a. Contributions	\$ 18,656,537
b. Benefit Payments and Refunds	(28,161,630)
c. Net	\$ (9,505,093)
3. Expected Value of Assets as of December 31, 2012 $[(1) * 1.0775] + [2(c) * (1.0775)^5]$	\$ 540,678,006
4. Market Value of Assets as of December 31, 2012	\$ 511,488,454
5. Difference Between Actual and Expected Values	\$ (29,189,552)
6. Actuarial Value of Assets as of December 31, 2012 $(3) + [(5) * 0.25]$	\$ 533,380,618
7. Actuarial Value of Assets Divided by Market Value of Assets	104.3%
8. Market Value of Assets Minus Actuarial Value of Assets	\$ (21,892,164)





## SECTION IV: SYSTEM LIABILITIES

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In the previous section, an actuarial valuation was compared with an inventory process, and an analysis was given of the inventory of assets of the System as of the valuation date, December 31, 2012. In this section, the discussion will focus on the commitments of the System, which are referred to as its liabilities.

Table 4 contains an analysis of the actuarial present value of all future benefits (PVFB) for contributing members, inactive members, retirees and their beneficiaries.

The liabilities summarized in Table 4 include the actuarial present value of all future benefits expected to be paid with respect to each member. For an active member, this value includes the measurement of both benefits already earned and future benefits to be earned. For all members, active and retired, the value extends over benefits earnable and payable for the rest of their lives and for the lives of the surviving beneficiaries.

All liabilities reflect the benefit provisions in place as of December 31, 2012.

### **ACTUARIAL LIABILITY**

A fundamental principle in financing the liabilities of a prefunded retirement program is that the cost of its benefits should be related to the period in which benefits are earned, rather than to the period of benefit distribution. An actuarial cost method is a mathematical technique that allocates the present value of future benefits into annual costs. In order to do this allocation, it is necessary for the funding method to “breakdown” the present value of future benefits into two components:

1. That which is attributable to the past and
2. That which is attributable to the future.

Actuarial terminology calls the part attributable to the past the “past service liability” or the “actuarial liability”. The portion allocated to the future is known as the present value of future normal costs, with the specific piece of it allocated to the current year being called the “normal cost”. Table 5 contains the calculation of actuarial liability to the System. The Entry Age Normal actuarial cost method is used to develop the actuarial liability.



**TABLE 4**

**Present Value of Future Benefits (PVFB)  
as of December 31, 2012**

	<b>Plans</b>		
	<b><u>A and B</u></b>	<b><u>Plan C</u></b>	<b><u>Total</u></b>
1. Active Employees			
a. Retirement Benefit	\$ 10,784,748	\$ 357,524,432	\$ 368,309,180
b. Pre-Retirement Death Benefit	800	5,131,143	5,131,943
c. Withdrawal Benefit	0	13,231,384	13,231,384
d. Disability Benefit	6,114	57,391,266	57,397,380
e. Total	\$ 10,791,662	\$ 433,278,225	\$ 444,069,887
2. Inactive Vested Members	\$ 0	\$ 10,887,058	\$ 10,887,058
3. In Pay Members			
a. Retirees	\$ 154,257,725	\$ 60,857,898	\$ 215,115,623
b. Disabled Members	17,900,840	34,132,189	52,033,029
c. Beneficiaries	22,139,288	5,810,841	27,950,129
d. Total	\$ 194,297,853	\$ 100,800,928	\$ 295,098,781
4. Total Present Value of Future Benefits 1(e) + (2) + 3(d)	\$ 205,089,515	\$ 544,966,211	\$ 750,055,726



**TABLE 5**

**Actuarial Liability  
as of December 31, 2012**

	<b><u>Plans A and B</u></b>	<b><u>Plan C</u></b>	<b><u>Total</u></b>
1. Active Employees			
a. Present Value of Future Benefits	\$ 10,791,662	\$ 433,278,225	\$ 444,069,887
b. Present Value of Future Normal Costs	338,154	160,644,197	160,982,351
c. Actuarial Liability 1(a) - 1(b)	\$ 10,453,508	\$ 272,634,028	\$ 283,087,536
2. Inactive Vested Members	\$ 0	\$ 10,887,058	\$ 10,887,058
3. In Pay Members			
a. Retirees	\$ 154,257,725	\$ 60,857,898	\$ 215,115,623
b. Disabled Members	17,900,840	34,132,189	52,033,029
c. Beneficiaries	22,139,288	5,810,841	27,950,129
d. Total	\$ 194,297,853	\$ 100,800,928	\$ 295,098,781
4. Total Actuarial Liability 1(c) + (2) + 3(d)	\$ 204,751,361	\$ 384,322,014	\$ 589,073,375



TABLE 6

**Present Value of Accrued Benefits  
as of December 31, 2012**

The present value of accrued benefits for the System reflects the benefits earned based on service, earnings, and the System provisions as of the valuation date. It also reflects the on-going nature of the System by using the same actuarial assumptions as are used for funding purposes. Further, because the System provides that the accrued benefits of deferred vested members are indexed until benefits begin, the present value of the accrued benefit liability for active members reflects this provision from the assumed termination of employment to the assumed benefit commencement date.

	<b><u>Plans A and B</u></b>	<b><u>Plan C</u></b>	<b><u>Total</u></b>
1. Active Employees	\$ 10,744,020	\$ 208,519,874	\$ 219,263,894
2. Inactive Vested Members	\$ 0	\$ 10,887,058	\$ 10,887,058
3. In Pay Members			
a. Retirees	\$ 154,257,725	\$ 60,857,898	\$ 215,115,623
b. Disabled Members	17,900,840	34,132,189	52,033,029
c. Beneficiaries	22,139,288	5,810,841	27,950,129
d. Total	\$ 194,297,853	\$ 100,800,928	\$ 295,098,781
4. Total	\$ 205,041,873	\$ 320,207,860	\$ 525,249,733
5. Market Value of Assets*	\$ 199,669,879	\$ 311,818,575	\$ 511,488,454
6. Funded Ratio (5)/(4)	97%	97%	97%

\* Split of assets between Plans A and B and Plan C is in proportion to the liabilities for illustrative purposes only.



## **SECTION V: EMPLOYER CONTRIBUTIONS**

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The previous two sections were devoted to a discussion of the assets and liabilities of the System. A comparison of Tables 3 and 4 indicates that current assets fall short of meeting the present value of future benefits (total liability). This is expected in all but a completely closed fund, where no further contributions are anticipated. In an active system, there will almost always be a difference between the actuarial value of assets and total liabilities. This deficiency has to be made up by future contributions and investment returns. An actuarial valuation sets out a schedule of future contributions that will deal with this deficiency in an orderly fashion.

The method used to determine the incidence of the contributions in various years is called the actuarial cost method. Under an actuarial cost method, the contributions required to meet the difference between current assets and current liabilities are allocated each year between two elements: (1) the normal cost rate and (2) the unfunded actuarial liability contribution rate.

The term “fully funded” is often applied to a system in which contributions at the normal cost rate are sufficient to pay for the benefits of existing employees as well as for those of new employees. More often than not, systems are not fully funded, either because of past benefit improvements that have not been completely funded or because of actuarial deficiencies that have occurred because experience has not been as favorable as anticipated. Under these circumstances, an unfunded actuarial liability (UAL) exists. Likewise, when the actuarial value of assets is greater than the actuarial liability, a surplus exists.

### **DESCRIPTION OF CONTRIBUTION RATE COMPONENTS**

The Entry Age Normal (EAN) actuarial cost method is used for the valuation. Under this method, the normal cost for each year from entry age to assumed exit age is a constant percentage of the member’s year by year projected compensation. The portion of the present value of future benefits not provided by the present value of future normal costs is the actuarial liability. The unfunded actuarial liability/(surplus) represents the difference between the actuarial liability and the actuarial value of assets as of the valuation date. The unfunded actuarial liability is calculated each year and reflects experience gains/(losses).

In general, contributions are computed in accordance with a level percent-of-payroll funding objective. The contribution rates based on this December 31, 2012 actuarial valuation will be used to determine employer contribution rates to the Police and Fire Retirement System of Wichita, Kansas for fiscal year 2014. In this context, the term “contribution rate” means the percentage, which is applied to a particular active member payroll to determine the actual employer contribution amount (i.e., in dollars) for the group.

As of December 31, 2012, the valuation assts were less than the actuarial liability so an unfunded actuarial liability exists. State statutes require any unfunded actuarial liability/(surplus) in municipal police and fire retirement systems to be amortized over a rolling 20-year period. The amortization of the UAL results in an employer contribution that is more than the employer normal cost rate.

### **CONTRIBUTION RATE SUMMARY**

In Table 7, the amortization payment related to the unfunded actuarial liability/(surplus), as of December 31, 2012, is developed. Table 8 develops the normal cost rate for the System. The derivation of the total contribution rate for the City is shown in Table 9. Table 10 shows the historical summary of the City’s contribution rates. Table 11 develops the experience gain/(loss) for the year ended December 31, 2012.

The rates shown in this report are based on the actuarial assumptions and cost methods described in Appendix C.



**TABLE 7**

**Derivation of Unfunded Actuarial Liability Contribution Rate**

1. Actuarial Accrued Liability	\$	589,073,375
2. Actuarial Value of Assets	\$	533,380,618
3. Unfunded Actuarial Liability/(Surplus)	\$	55,692,757
4. Payment (Adjusted to Mid-Year) to Amortize Unfunded Actuarial Liability/(Surplus) Over 20 Years*	\$	3,963,718
5. Total Projected Payroll for the Year	\$	67,497,679
6. Amortization Payment as a Percent of Payroll		5.9%

\* The UAL is amortized as a level percent of payroll over a rolling 20-year period.



TABLE 8

Derivation of Normal Cost Rate

Normal Cost for Year End December 31, 2012	
Service pensions	\$ 10,527,504
Disability pensions	3,304,462
Survivor Pensions	313,717
Termination Benefits	1,013,094
Total Normal Cost	\$ 15,158,777
Expected Payroll in 2013 for Current Actives	\$ 64,415,911
Total Normal Cost Rate for Year	23.5%



TABLE 9

**Employer Contribution Rates  
for Fiscal Year Commencing in 2014**

	<b>Contribution Requirement as a % of Payroll</b>	
Normal Cost		
Service pensions	16.3	%
Disability pensions	5.1	%
Survivor pensions	0.5	%
Termination pensions	1.6	%
Total Normal Cost	23.5	%
Unfunded Actuarial Liability		
Retired members and beneficiaries <sup>(1)</sup>	0.0	%
Active and former members <sup>(2)</sup>	5.9	%
Total UAL Contribution	5.9	%
Total Contribution Requirement		
Member Financed Portion <sup>(3)</sup>	7.0	%
City Financed Portion	22.4	%
Total	29.4	%

<sup>(1)</sup> Actuarial accrued liability for retired members and beneficiaries was fully funded as of December 31, 2012

<sup>(2)</sup> The excess of the actuarial liability over actuarial value of assets is amortized as a level percent of active member payroll over a rolling 20-year period.

<sup>(3)</sup> The weighted average of member contribution rates: 8.0% for Plan A and 7.0% for Plan C.





TABLE 10

## Historical Summary of City Contribution Rates

Contribution rates are computed in accordance with a level percent of payroll funding objective. As of December 31, 2012, the actuarial value of assets is less than actuarial liabilities resulting in an unfunded actuarial liability (UAL). The UAL is amortized over a rolling 20-year period.

Valuation Date	Fiscal Year	City Contributions as Percents of Active Member Pensionable Payroll	
		Funding Objective	Amortization (Credit)/Payment
11/30/1992	1994	23.3%	0.0%
11/30/1993	1995	22.7	0.0
11/30/1994	1996	22.6	0.0
12/31/1995	1997	18.3 <sup>(1)</sup>	0.0
12/31/1996	1998	17.5	0.0
12/31/1997	1999	15.2 - 15.9	(0.7)
12/31/1998	2000	12.3 - 15.9	(3.6)
12/31/1999 <sup>(2)</sup>	2001	9.6 - 16.8	(7.2)
12/31/2000	2002	8.2 - 16.8	(8.7)
12/31/2001	2003	10.0 - 16.8	(6.8)
12/31/2002	2004	14.0 - 17.0	(3.0)
12/31/2003	2005	13.6 - 17.0	(3.4)
12/31/2004 <sup>(3)</sup>	2006	18.4	0.1
12/31/2005	2007	17.5	0.2
12/31/2006	2008	16.8 - 17.5	(0.7)
12/31/2007	2009	16.0 - 17.5	(1.5)
12/31/2008	2010	20.8	2.7
12/31/2009 <sup>(4)</sup>	2011	22.0	4.3
12/31/2010	2012	22.0	4.2
12/31/2011	2013	22.8	5.6
12/31/2012	2014	22.4	5.9

<sup>(1)</sup> Reflects allocation of assets to fully fund retired life liabilities.

<sup>(2)</sup> Includes benefit provision and assumption changes and 1% decrease in member contribution rate.

<sup>(3)</sup> Reflects assumption changes and elimination of surplus assets.

<sup>(4)</sup> Reflects assumption changes.



**TABLE 11**  
**Derivation of System Experience Gain/(Loss)**

	(\$M) <b>Year Ended <u>12/31/2012</u></b>
(1) UAL* at start of year	\$51.5
(2) + Normal cost for year	15.4
(3) + Assumed investment return on (1) & (2)	4.6
(4) - Actual contributions (member + City)	18.7
(5) - Assumed investment return on (4)	0.7
(6) = Expected UAL at end of year	52.1
(7) + Increase (decrease) from change in Actuary	4.8
(8) + Increase (decrease) from assumption changes	0.0
(9) = Expected UAL after changes	56.9
(10) = Actual UAL at year end	55.7
(11) = Experience gain/(loss) (9) - (10)	\$1.2**
(12) = Percent of beginning of year AL	0.2%

\* Unfunded Actuarial Liability/(Surplus)

\*\* Of this amount, there was an experience loss of \$7.3 million due to the actuarial value of assets and an experience gain of \$8.5 million on actuarial liabilities.



## SECTION VI: ACCOUNTING INFORMATION

The actuarial liability is a measure intended to help the reader assess (i) a retirement system's funded status on an on-going concern basis, and (ii) progress being made toward accumulating the assets needed to pay benefits as due. Allocation of the actuarial present value of projected benefits between past and future service was based on service using the Entry Age Normal actuarial cost method. Assumptions, including projected pay increases, were the same as used to determine the System's level percent of payroll annual required contribution between entry age and assumed exit age. Entry age was established by subtracting credited service from current age on the valuation date.

The preceding methods comply with the financial reporting standards established by the Governmental Accounting Standards Board.

The Entry Age Normal actuarial liability was determined as part of an actuarial valuation of the System as of December 31, 2012. Significant actuarial assumptions used in determining the actuarial liability include:

- (a) A rate of return on the investment of present and future assets of 7.75% per year compounded annually,
- (b) Projected salary increases of 4.00% per year compounded annually, (3.50% attributable to inflation, and 0.50% attributable to productivity),
- (c) Additional projected salary increases of 1.0% to 2.75% per year attributable to seniority/merit, and
- (d) The assumption that benefits will increase 2.0% per year of retirement, non-compounded commencing 36 months after retirement.

### Actuarial Liability:

Active members	\$283,087,536
Retired members and beneficiaries currently receiving benefits	295,098,781
Vested terminated members not yet receiving benefits	<u>10,887,058</u>
Total Actuarial Liability	\$589,073,375
Actuarial Value of Assets (market value was \$511,488,454)	\$533,380,618
Unfunded Actuarial Liability	\$ 55,692,757

During the year ended December 31, 2012, the System experienced a net increase of \$4.2 million in the unfunded actuarial liability.



TABLE 12

**Required Supplementary Information  
Schedule of Funding Progress**

<b>Actuarial Valuation Date</b>	<b>Actuarial Value of Assets (a)</b>	<b>Actuarial Liability (AL) (b)</b>	<b>Unfunded AL (UAL) (b)-(a)</b>	<b>Funded Ratio (a)/(b)</b>	<b>Active Member Covered Payroll (c)</b>	<b>UAL as a Percentage of Active Member Covered Payroll [(b)-(a)]/(c)</b>
11/30/1992	\$165,132	\$198,656	\$33,524	83.1%	\$25,000	134.1%
11/30/1993	180,457	208,966	28,509	86.4	26,008	109.6
11/30/1994	192,668	220,596	27,928	87.3	27,819	100.4
12/31/1995 <sup>(1)</sup>	213,431	231,372	17,941	92.2	29,749	60.3
12/31/1996	237,554	247,408	9,854	96.0	33,366	29.5
12/31/1997	262,815	258,706	(4,109)	101.6	35,502	(11.6)
12/31/1998	295,625	274,900	(20,725)	107.5	36,566	(56.7)
12/31/1999 <sup>(1)</sup>	330,072	291,633	(38,439)	113.2	37,969	(101.2)
12/31/2000	354,044	308,894	(45,150)	114.6	38,613	(116.9)
12/31/2001	362,493	325,335	(37,158)	111.4	42,286	(87.9)
12/31/2002	361,687	340,524	(21,163)	106.2	45,696	(46.3)
12/31/2003	374,171	350,444	(23,727)	106.8	45,876	(51.7)
12/31/2004 <sup>(1)</sup>	392,485	393,387	902	99.8	50,414	1.8
12/31/2005	412,823	414,027	1,204	99.7	52,207	2.3
12/31/2006	444,498	439,179	(5,319)	101.2	53,530	(9.9)
12/31/2007	480,820	468,115	(12,705)	102.7	57,310	(22.2)
12/31/2008	472,345	496,561	24,216	95.1	60,282	40.2
12/31/2009 <sup>(1)</sup>	480,556	519,934	39,378	92.4	63,055 <sup>(2)</sup>	62.5 <sup>(2)</sup>
12/31/2010	497,926	536,908	38,982	92.7	63,077	61.8
12/31/2011	510,946	562,488	51,542	90.8	62,759	82.1
12/31/2012	533,381	589,074	55,693	90.5	64,150	86.8

*Dollar amounts are in thousands.*

*Note: Years prior to 12/31/2012 were provided by prior actuary.*

<sup>(1)</sup> After changes in benefits and/or actuarial assumptions and/or actuarial cost methods.

<sup>(2)</sup> These amounts have been revised from the \$63,479,000 and 62.0% amounts reported in the December 31, 2009 actuarial valuation report.

Analysis of the dollar amounts of actuarial value of assets, actuarial liability, or unfunded actuarial liability in isolation can be misleading. Expressing the actuarial value of assets as a percentage of the actuarial liability provides one indication of the System's funded status on an on-going concern basis. Analysis of this percentage over time indicates whether the System is becoming financially stronger or weaker. Generally, the greater this percentage, the stronger the plan's funding. The unfunded actuarial liability and annual covered payroll are both affected by inflation. Expressing the unfunded actuarial liability as a percentage of covered payroll approximately adjusts for the effects of inflation and aids analysis of the progress being made in accumulating sufficient assets to pay benefits when due. Generally, the smaller this percentage, the stronger the plan's funding.



TABLE 13

**Required Supplementary Information  
Schedule of Employer Contributions**

<b>Fiscal Year</b>	<b>Actuarial Valuation Date</b>	<b>Annual Required Contribution</b>	<b>Percent Contributed</b>
1997	12/31/1995	\$6,343,027	100%
1998	12/31/1996	6,427,744	100
1999	12/31/1997	6,043,455	100
2000	12/31/1998	5,540,575	100
2001	12/31/1999	4,796,863	100
2002	12/31/2000	4,746,504	100
2003	12/31/2001	5,043,505	100
2004	12/31/2002	6,925,467	100
2005	12/31/2003	7,308,916	100
2006	12/31/2004	9,849,536	100
2007	12/31/2005	10,029,253	100
2008	12/31/2006	10,549,401	100
2009	12/31/2007	11,034,552	100
2010	12/31/2008	13,119,984	100
2011	12/31/2009	13,806,880	100
2012	12/31/2010	14,113,014	100

*Note: Years prior to 2012 were provided by prior actuary.*

**Notes to Required Supplementary Information  
Summary of Actuarial Methods and Assumptions**

Valuation Date	December 31, 2012
Actuarial Cost Method	Entry Age Normal
Amortization Method	Level percent of payroll, open
Remaining Amortization Period	20 years
Asset Valuation Method	Expected + 25% of (Market – Expected Values)
Actuarial Assumptions:	
Investment Rate of Return*	7.75%
Projected Salary Increases*	5.00%-6.75%
*Includes Inflation at	3.50%
Cost-of-Living Adjustments	2.00% non-compounding commencing 36 months after retirement



**TABLE 14**  
**Solvency Test**

Valuation Date	Aggregate Actuarial Liability For				Portion of Actuarial Liabilities Covered by Reported Assets		
	(1) Active Member Contributions	(2) Retirants and Beneficiaries*	(3) Active Members (Employer Financed Portion)	Reported Valuation Assets	(1)	(2)	(3)
11/30/1994	\$18,003,627	\$127,670,273	\$74,921,662	\$192,667,674	100.0%	100.0%	62.7%
12/31/1995	19,597,012	132,215,980	79,559,050	213,431,416	100.0	100.0	77.4
12/31/1996	20,807,624	141,902,560	84,497,686	237,553,602	100.0	100.0	88.6
12/31/1997	22,518,199	146,068,362	90,119,236	262,814,796	100.0	100.0	104.6
12/31/1998	23,845,658	157,021,415	94,033,395	295,624,986	100.0	100.0	122.0
12/31/1999	24,759,118	170,478,501	96,395,412	330,071,866	100.0	100.0	139.9
12/31/2000	27,152,206	183,463,718	98,277,967	354,044,311	100.0	100.0	145.9
12/31/2001	27,694,761	183,034,623	114,605,637	362,493,060	100.0	100.0	132.4
12/31/2002	34,440,696	182,063,498	124,019,921	361,687,109	100.0	100.0	117.1
12/31/2003	37,027,041	186,930,565	126,486,746	374,170,781	100.0	100.0	118.8
12/31/2004	40,959,525	201,051,248	151,375,876	392,484,697	100.0	100.0	99.4
12/31/2005	44,057,922	210,560,068	159,408,592	412,822,760	100.0	100.0	99.2
12/31/2006	48,361,719	216,449,174	174,368,239	444,497,827	100.0	100.0	103.1
12/31/2007	53,686,866	230,893,426	183,634,348	480,820,001	100.0	100.0	106.9
12/31/2008	58,050,319	238,590,747	199,920,080	472,345,191	100.0	100.0	87.9
12/31/2009	60,326,408	257,298,665	202,309,181	480,555,562	100.0	100.0	80.5
12/31/2010	63,515,814	270,693,677	202,698,947	497,925,786	100.0	100.0	80.8
12/31/2011	66,390,179	293,730,691	202,367,017	510,946,217	100.0	100.0	74.5
12/31/2012	70,527,705	305,985,839	212,559,831	533,380,618	100.0	100.0	73.8

During the twelve months ended December 31, 2012, the Police and Fire Retirement System of Wichita, Kansas generated a net actuarial gain of \$1.2 million. The amount is 0.2% of the actuarial liability at the beginning of the year.

\* Includes vested terminated members.

Note: Years prior to 2012 provided by prior actuary.



**MEMBER DATA RECONCILIATION**

December 31, 2011 to December 31, 2012

The number of members included in the valuation, as summarized in the table below, is in accordance with the data submitted by the System for members of the valuation date.

	Active Participants		Retirees and Beneficiaries		Terminated Vested		Total
	Police	Fire	Police	Fire	Police	Fire	
Members as of 12/31/2011	623	465	439	472	27	8	2,034
New Members	+22	+15	+4	+5	0	0	+46
Transfers	0	0	0	0	0	0	0
Terminations							
Refunded	-9	-4	0	0	0	0	-13
Deferred Vested	-5	-1	0	0	+5	+1	0
Completion of payments to minor child	0	0	-1	-1	0	0	-2
Retirements							
Service	-7	-11	+10	+11	-3	0	0
Disability	-2	-1	+2	+1	0	0	0
Deaths							
Cashed Out	0	0	0	0	0	0	0
With Beneficiary	0	0	-4	-4	0	0	-8
Without Beneficiary	0	0	-5	-8	0	0	-13
Data Adjustments	0	-1	0	0	0	0	-1
<b>Members as of 12/31/2012</b>	<b>622</b>	<b>462</b>	<b>445</b>	<b>476</b>	<b>29</b>	<b>9</b>	<b>2,043</b>

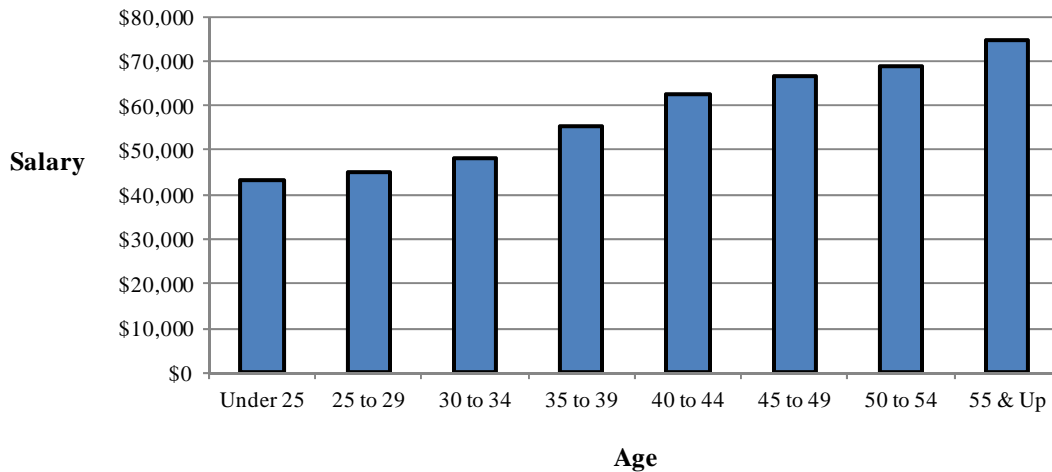


**SUMMARY OF ACTIVE MEMBERS**  
as of December 31, 2012

Total

Age	Number			Valuation Salaries		
	Police	Fire	Total	Police	Fire	Total
Under 25	13	9	22	\$ 579,467	\$ 370,380	\$ 949,847
25 to 29	60	58	118	2,805,547	2,486,275	5,291,822
30 to 34	88	92	180	4,441,706	4,257,940	8,699,646
35 to 39	110	65	175	6,281,836	3,382,365	9,664,201
40 to 44	141	73	214	9,014,241	4,330,623	13,344,864
45 to 49	108	69	177	7,290,044	4,495,497	11,785,541
50 to 54	70	60	130	4,958,936	3,985,735	8,944,671
55 & Up	32	36	68	2,401,444	2,679,109	5,080,553
Total	622	462	1,084	\$37,773,221	\$25,987,924	\$63,761,145

**Average Salary by Age**



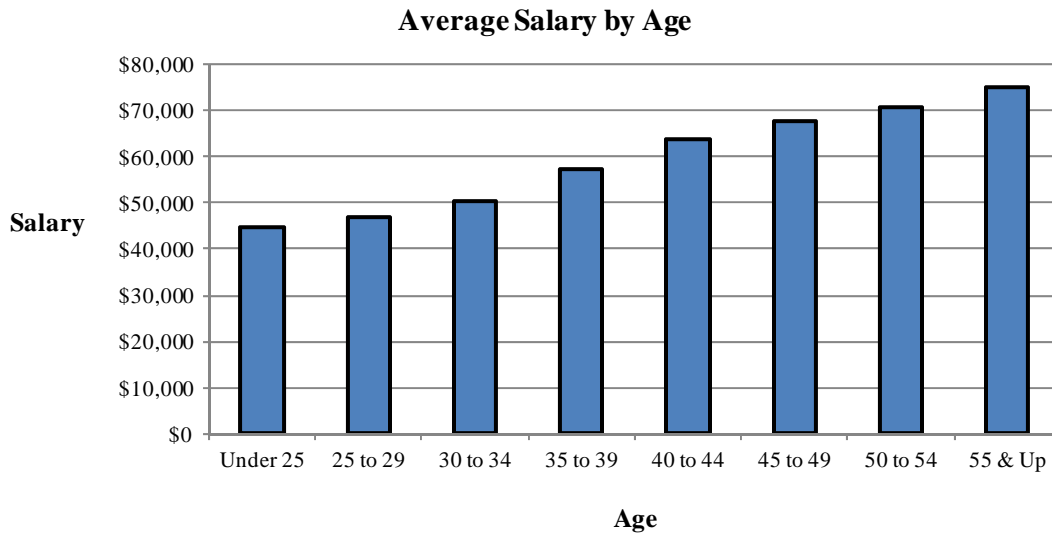




**SUMMARY OF ACTIVE MEMBERS**  
as of December 31, 2012

Police

Age	Number			Valuation Salaries		
	Male	Female	Total	Male	Female	Total
Under 25	11	2	13	\$ 491,307	\$ 88,160	\$ 579,467
25 to 29	52	8	60	2,428,678	376,869	2,805,547
30 to 34	73	15	88	3,695,533	746,173	4,441,706
35 to 39	90	20	110	5,160,778	1,121,058	6,281,836
40 to 44	123	18	141	7,926,341	1,087,900	9,014,241
45 to 49	104	4	108	7,018,502	271,542	7,290,044
50 to 54	64	6	70	4,511,690	447,246	4,958,936
55 & Up	28	4	32	2,115,159	286,285	2,401,444
Total	545	77	622	\$33,347,988	\$4,425,233	\$37,773,221

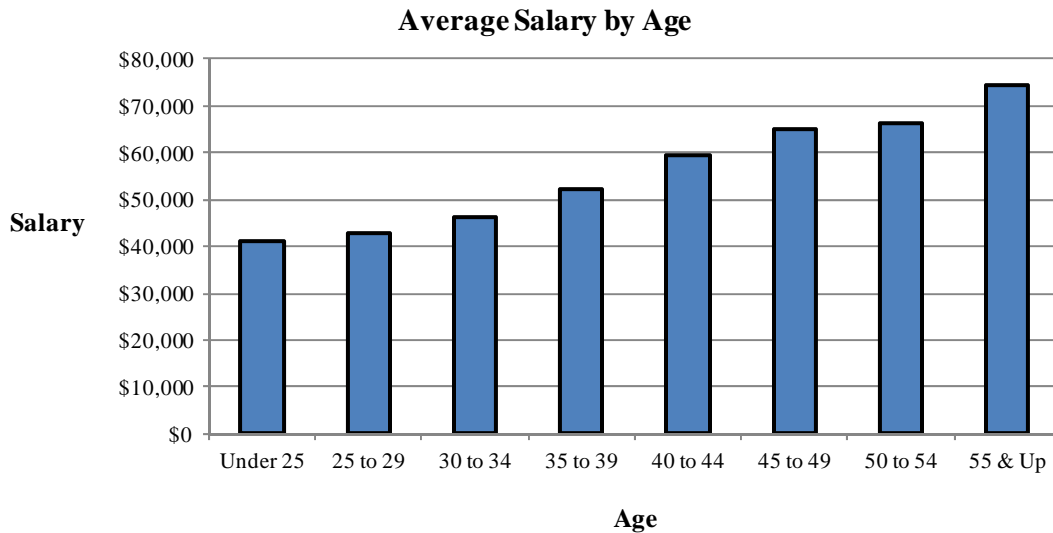




**SUMMARY OF ACTIVE MEMBERS**  
as of December 31, 2012

Fire

Age	Number			Valuation Salaries		
	Male	Female	Total	Male	Female	Total
Under 25	9	0	9	\$ 370,380	\$ 0	\$ 370,380
25 to 29	58	0	58	2,486,275	0	2,486,275
30 to 34	89	3	92	4,124,579	133,361	4,257,940
35 to 39	64	1	65	3,328,047	54,318	3,382,365
40 to 44	73	0	73	4,330,623	0	4,330,623
45 to 49	67	2	69	4,378,186	117,311	4,495,497
50 to 54	60	0	60	3,985,735	0	3,985,735
55 & Up	35	1	36	2,590,091	89,018	2,679,109
Total	455	7	462	\$25,593,916	\$394,008	\$25,987,924



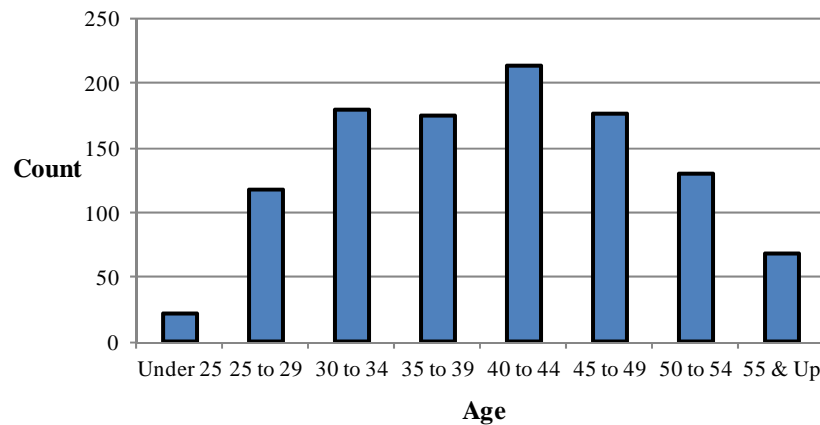


## DISTRIBUTION OF ACTIVE MEMBERS as of December 31, 2012

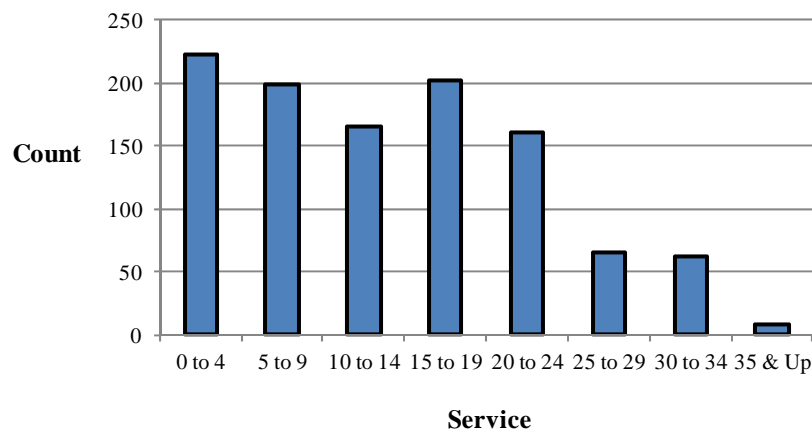
Total

Age	Years of Service								Total
	0 to 4	5 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 & Up	
Under 25	22	0	0	0	0	0	0	0	22
25 to 29	97	21	0	0	0	0	0	0	118
30 to 34	72	90	18	0	0	0	0	0	180
35 to 39	22	53	76	24	0	0	0	0	175
40 to 44	6	26	55	98	29	0	0	0	214
45 to 49	2	4	12	61	75	23	0	0	177
50 to 54	1	5	3	16	41	31	33	0	130
55 & Up	0	0	2	2	15	11	30	8	68
Total	222	199	166	201	160	65	63	8	1,084

**Age Distribution**



**Service Distribution**



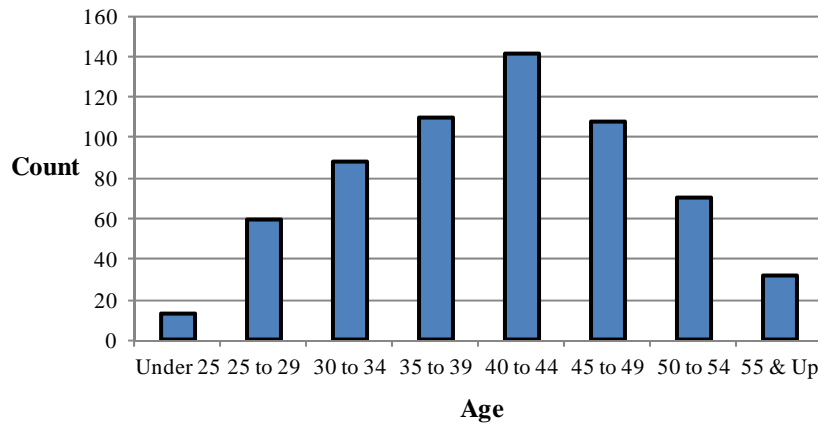


## DISTRIBUTION OF ACTIVE MEMBERS as of December 31, 2012

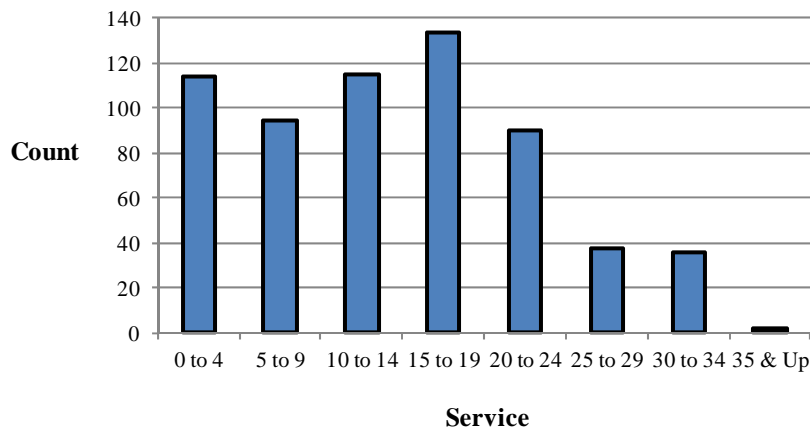
Police

Age	Years of Service								Total
	0 to 4	5 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 & Up	
Under 25	13	0	0	0	0	0	0	0	13
25 to 29	51	9	0	0	0	0	0	0	60
30 to 34	33	43	12	0	0	0	0	0	88
35 to 39	11	26	55	18	0	0	0	0	110
40 to 44	3	10	39	69	20	0	0	0	141
45 to 49	2	3	6	37	47	13	0	0	108
50 to 54	1	3	1	8	17	21	19	0	70
55 & Up	0	0	2	1	6	4	17	2	32
Total	114	94	115	133	90	38	36	2	622

**Age Distribution**



**Service Distribution**



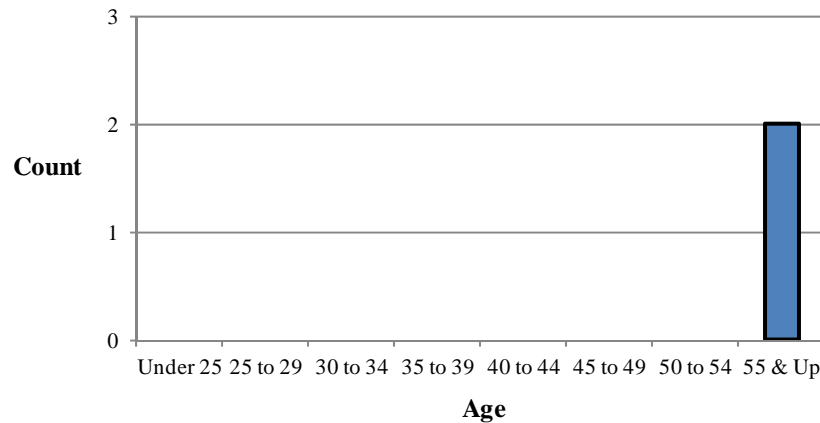


## DISTRIBUTION OF ACTIVE MEMBERS as of December 31, 2012

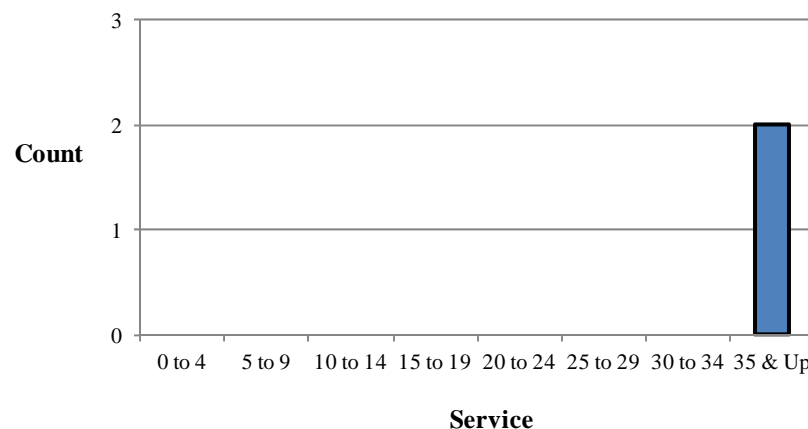
Police – Plan A

Age	Years of Service								Total
	0 to 4	5 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 & Up	
Under 25	0	0	0	0	0	0	0	0	0
25 to 29	0	0	0	0	0	0	0	0	0
30 to 34	0	0	0	0	0	0	0	0	0
35 to 39	0	0	0	0	0	0	0	0	0
40 to 44	0	0	0	0	0	0	0	0	0
45 to 49	0	0	0	0	0	0	0	0	0
50 to 54	0	0	0	0	0	0	0	0	0
55 & Up	0	0	0	0	0	0	0	2	2
Total	0	0	0	0	0	0	0	2	2

**Age Distribution**



**Service Distribution**



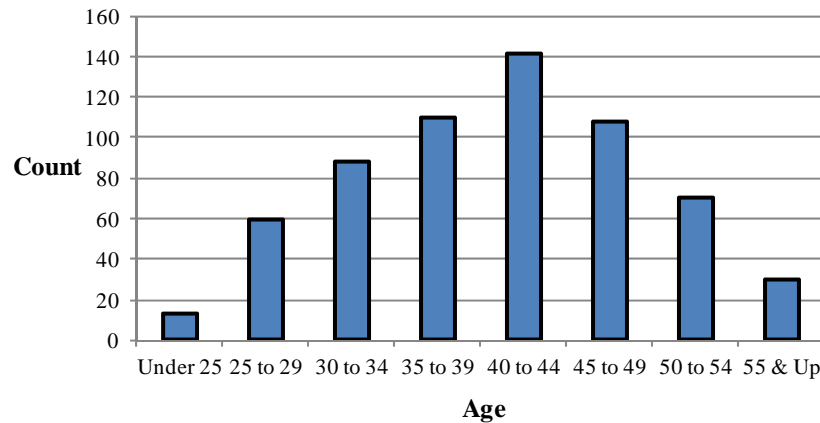


## DISTRIBUTION OF ACTIVE MEMBERS as of December 31, 2012

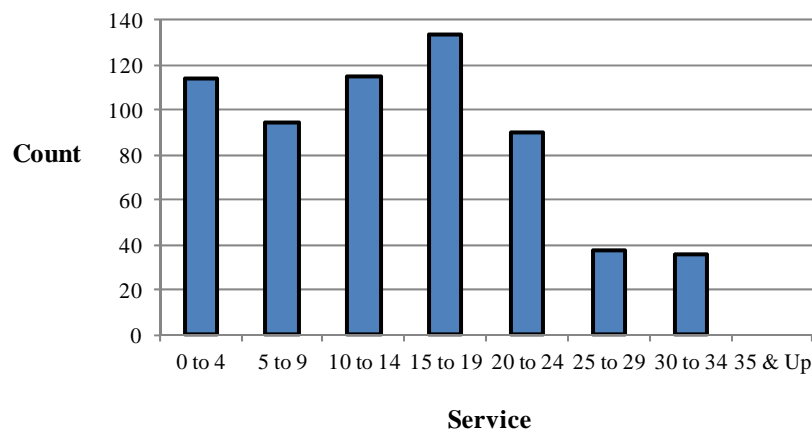
Police – Plan C

Age	Years of Service								Total
	0 to 4	5 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 & Up	
Under 25	13	0	0	0	0	0	0	0	13
25 to 29	51	9	0	0	0	0	0	0	60
30 to 34	33	43	12	0	0	0	0	0	88
35 to 39	11	26	55	18	0	0	0	0	110
40 to 44	3	10	39	69	20	0	0	0	141
45 to 49	2	3	6	37	47	13	0	0	108
50 to 54	1	3	1	8	17	21	19	0	70
55 & Up	0	0	2	1	6	4	17	0	30
Total	114	94	115	133	90	38	36	0	620

**Age Distribution**



**Service Distribution**



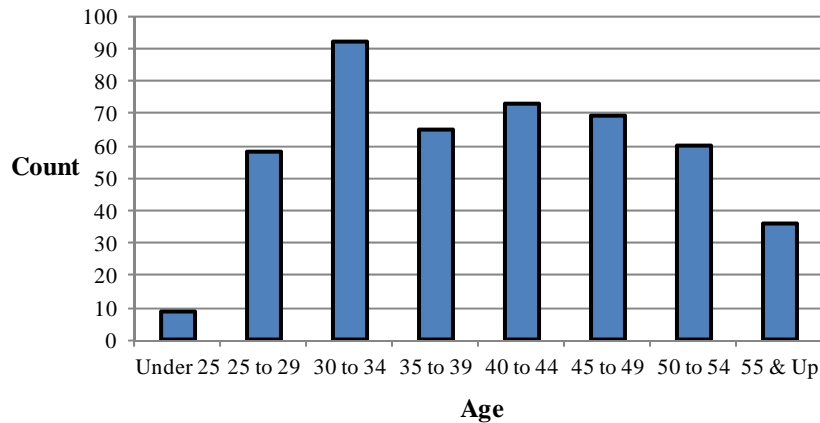


## DISTRIBUTION OF ACTIVE MEMBERS as of December 31, 2012

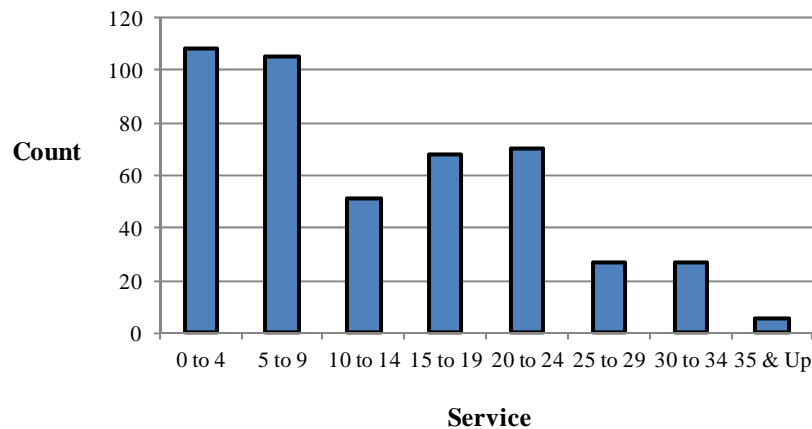
Fire

Age	Years of Service								Total
	0 to 4	5 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 & Up	
Under 25	9	0	0	0	0	0	0	0	9
25 to 29	46	12	0	0	0	0	0	0	58
30 to 34	39	47	6	0	0	0	0	0	92
35 to 39	11	27	21	6	0	0	0	0	65
40 to 44	3	16	16	29	9	0	0	0	73
45 to 49	0	1	6	24	28	10	0	0	69
50 to 54	0	2	2	8	24	10	14	0	60
55 & Up	0	0	0	1	9	7	13	6	36
Total	108	105	51	68	70	27	27	6	462

**Age Distribution**



**Service Distribution**



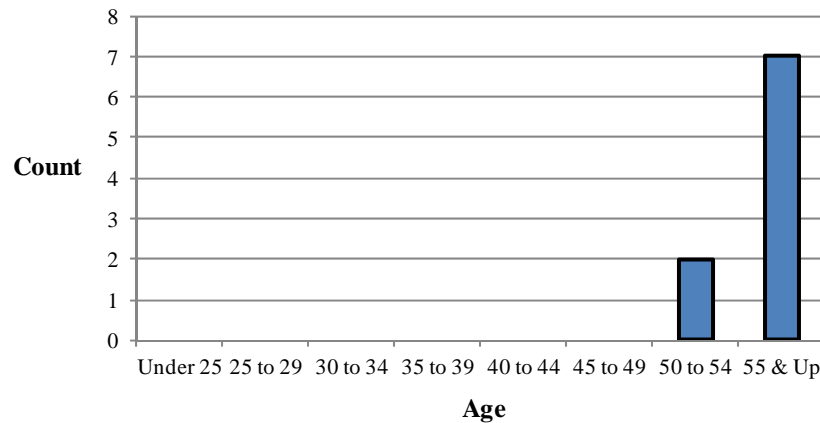


## DISTRIBUTION OF ACTIVE MEMBERS as of December 31, 2012

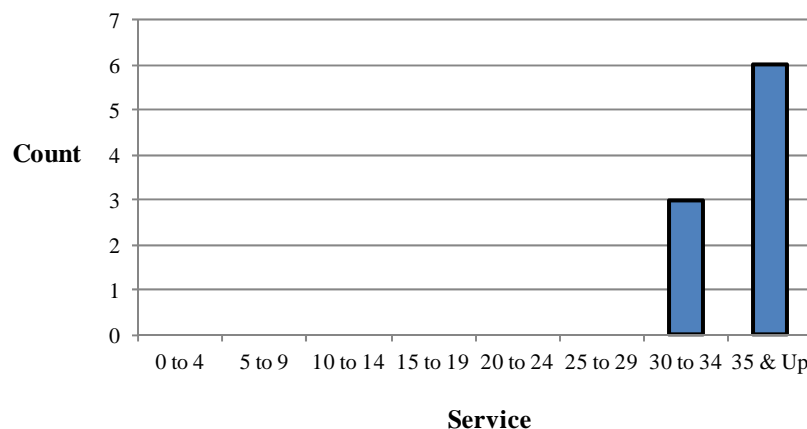
Fire – Plan A

Age	Years of Service								Total
	0 to 4	5 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 & Up	
Under 25	0	0	0	0	0	0	0	0	0
25 to 29	0	0	0	0	0	0	0	0	0
30 to 34	0	0	0	0	0	0	0	0	0
35 to 39	0	0	0	0	0	0	0	0	0
40 to 44	0	0	0	0	0	0	0	0	0
45 to 49	0	0	0	0	0	0	0	0	0
50 to 54	0	0	0	0	0	0	2	0	2
55 & Up	0	0	0	0	0	0	1	6	7
Total	0	0	0	0	0	0	3	6	9

**Age Distribution**



**Service Distribution**





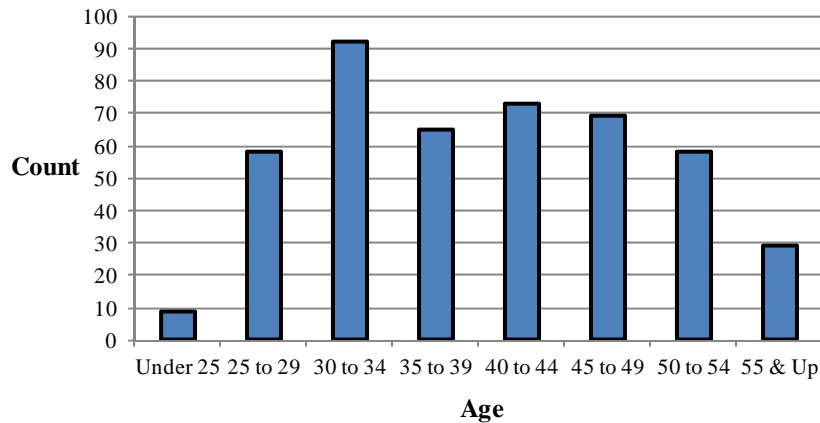


## DISTRIBUTION OF ACTIVE MEMBERS as of December 31, 2012

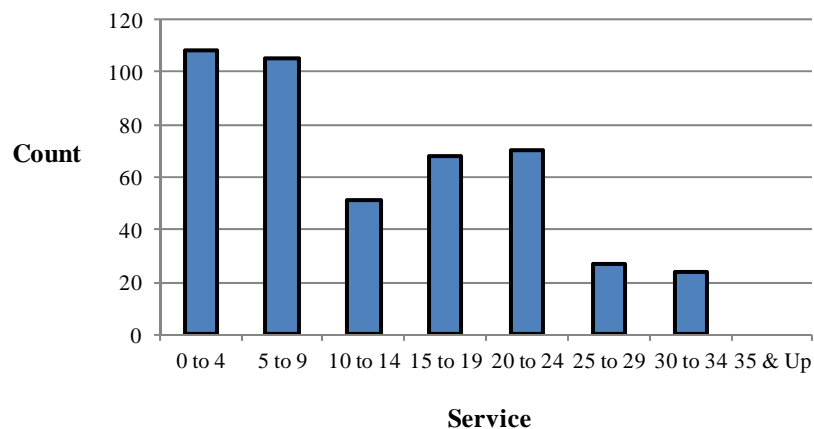
Fire – Plan C

Age	Years of Service								Total
	0 to 4	5 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 & Up	
Under 25	9	0	0	0	0	0	0	0	9
25 to 29	46	12	0	0	0	0	0	0	58
30 to 34	39	47	6	0	0	0	0	0	92
35 to 39	11	27	21	6	0	0	0	0	65
40 to 44	3	16	16	29	9	0	0	0	73
45 to 49	0	1	6	24	28	10	0	0	69
50 to 54	0	2	2	8	24	10	12	0	58
55 & Up	0	0	0	1	9	7	12	0	29
Total	108	105	51	68	70	27	24	0	453

**Age Distribution**



**Service Distribution**





## BackDROP Experience for the 2012 Plan Year

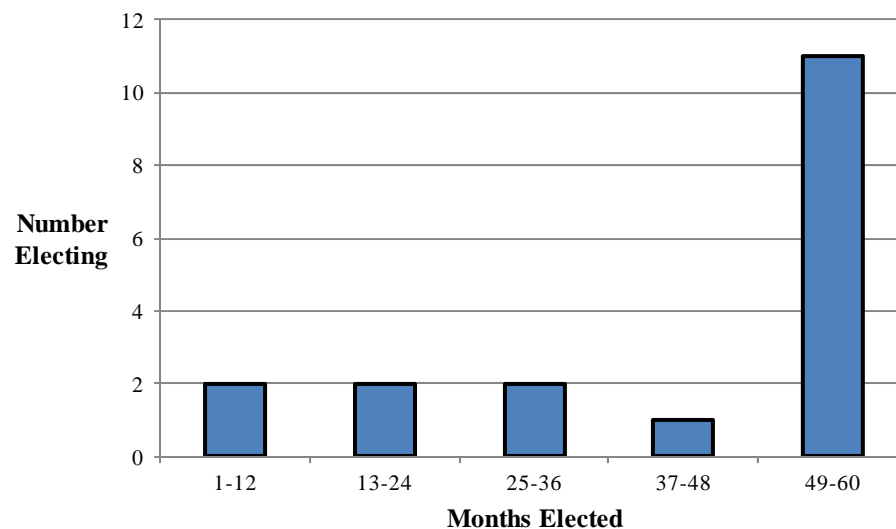
Total

Number Electing BackDROP

Distribution of BackDROP Election Period

Age	Final Benefit as a Proportion of Final Average Pay					Total
	Under 55%	55%-60%	60%-65%	65%-70%	70%-75%	
Under 55	1	2	0	0	5	8
55-59	0	1	0	2	4	7
60-64	1	0	0	0	1	2
65 & Up	0	0	0	0	1	1
Total	2	3	0	2	11	18

### Distribution of BackDROP Election Period





## APPENDIX A: SUMMARY OF MEMBERSHIP DATA

### BackDROP Experience for the 2012 Plan Year

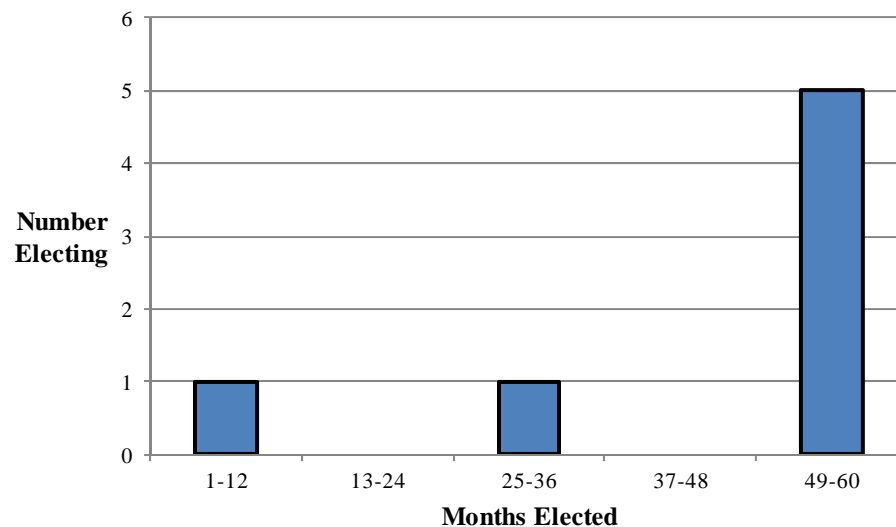
Police

Number Electing BackDROP

Distribution of BackDROP Election Period

Age	Final Benefit as a Proportion of Final Average Pay					Total
	Under 55%	55%-60%	60%-65%	65%-70%	70%-75%	
Under 55	0	2	0	0	1	3
55-59	0	0	0	0	2	2
60-64	0	0	0	0	1	1
65 & Up	0	0	0	0	1	1
Total	0	2	0	0	5	7

Distribution of BackDROP Election Period





## BackDROP Experience for the 2012 Plan Year

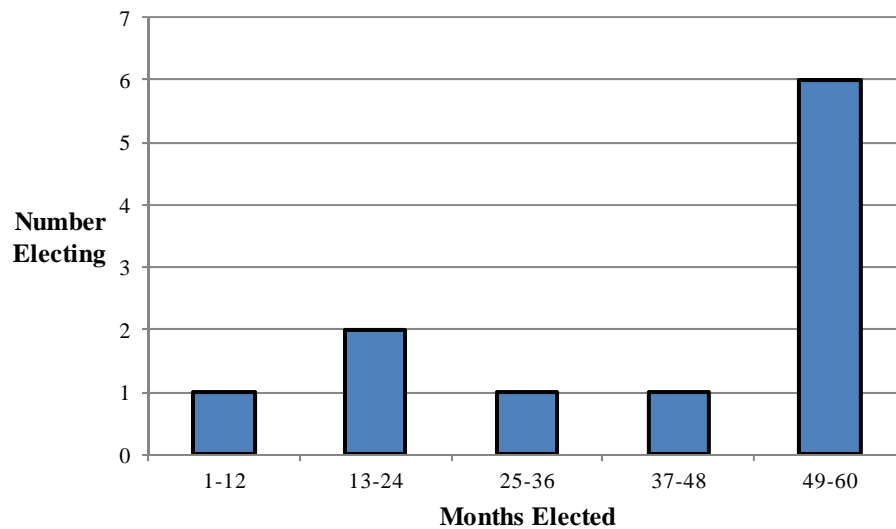
Fire

Number Electing BackDROP

Distribution of BackDROP Election Period

Age	Final Benefit as a Proportion of Final Average Pay					Total
	Under 55%	55%-60%	60%-65%	65%-70%	70%-75%	
Under 55	1	0	0	0	4	5
55-59	0	1	0	2	2	5
60-64	1	0	0	0	0	1
65 & Up	0	0	0	0	0	0
Total	2	1	0	2	6	11

Distribution of BackDROP Election Period



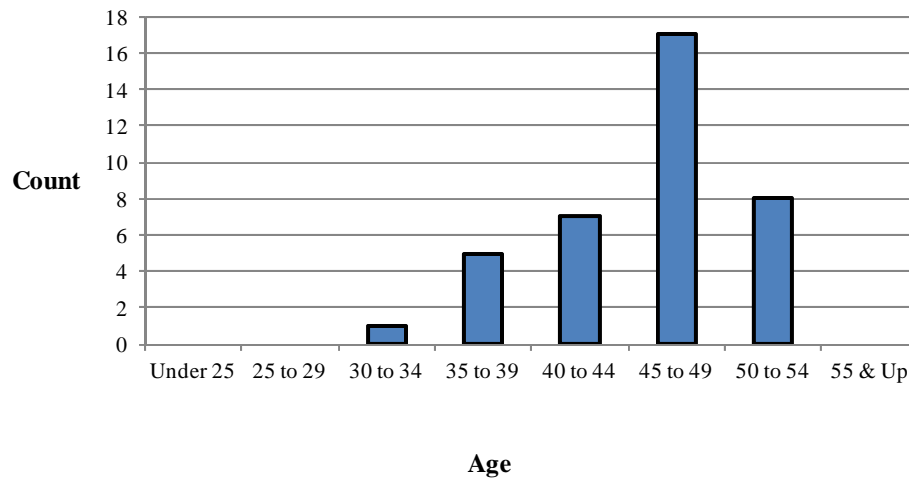


**SUMMARY OF DEFERRED VESTED MEMBERS**  
as of December 31, 2012

Total

Age	Number			Current Monthly Benefit at Retirement		
	Police	Fire	Total	Police	Fire	Total
Under 25	0	0	0	\$ 0	\$ 0	\$ 0
25 to 29	0	0	0	0	0	0
30 to 34	1	0	1	0	0	0
35 to 39	4	1	5	5,495	1,472	6,967
40 to 44	6	1	7	10,817	999	11,816
45 to 49	12	5	17	27,466	11,500	38,966
50 to 54	6	2	8	11,609	4,468	16,077
55 & Up	0	0	0	0	0	0
Total	29	9	38	\$55,387	\$18,439	\$73,826

**Age Distribution**



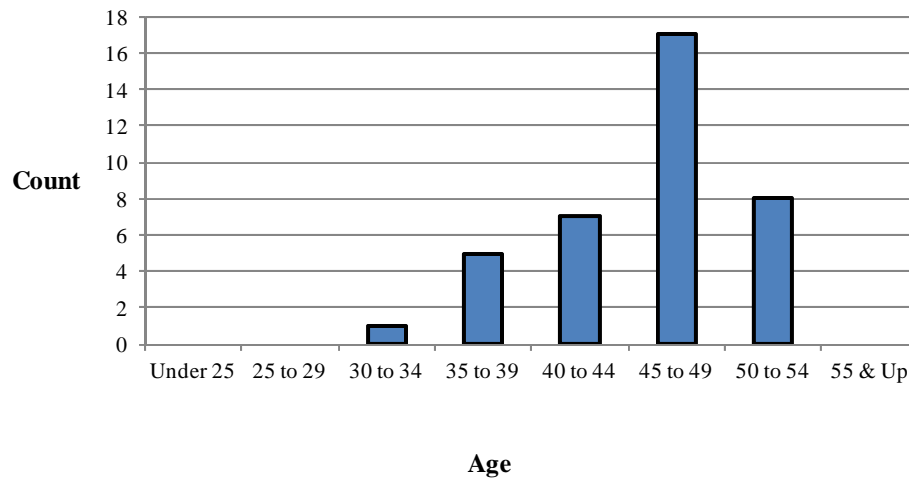


**SUMMARY OF DEFERRED VESTED MEMBERS**  
as of December 31, 2012

Total

Age	Number			Current Monthly Benefit at Retirement		
	Male	Female	Total	Male	Female	Total
Under 25	0	0	0	\$ 0	\$ 0	\$ 0
25 to 29	0	0	0	0	0	0
30 to 34	1	0	1	0	0	0
35 to 39	4	1	5	5,920	1,047	6,967
40 to 44	5	2	7	10,725	1,091	11,816
45 to 49	17	0	17	38,966	0	38,966
50 to 54	8	0	8	16,077	0	16,077
55 & Up	0	0	0	0	0	0
Total	35	3	38	\$71,688	\$2,138	\$73,826

**Age Distribution**

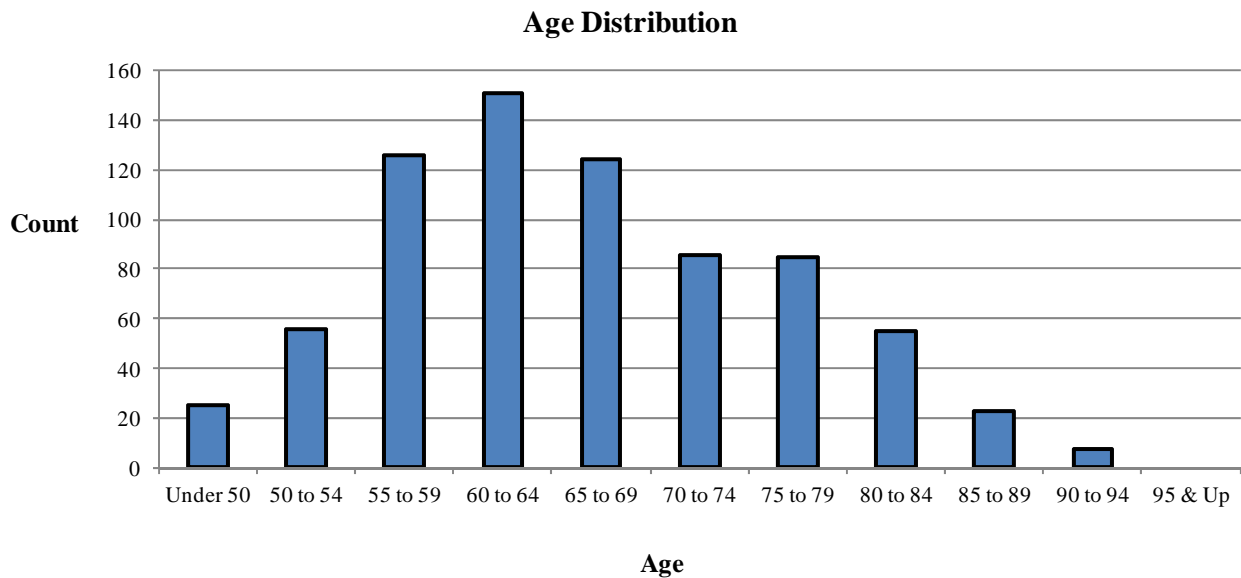




**SUMMARY OF RETIRED MEMBERS**  
as of December 31, 2012

Total

Age	Number			Current Monthly Benefit at Retirement		
	Police	Fire	Total	Police	Fire	Total
Under 50	18	7	25	\$ 58,197	\$ 23,586	\$ 81,783
50 to 54	33	23	56	119,449	73,396	192,845
55 to 59	63	63	126	189,581	185,313	374,894
60 to 64	62	89	151	172,422	244,272	416,694
65 to 69	67	57	124	150,093	146,988	297,081
70 to 74	40	46	86	86,464	94,146	180,610
75 to 79	37	48	85	66,294	102,561	168,855
80 to 84	23	32	55	37,765	51,809	89,574
85 to 89	10	13	23	12,828	21,002	33,830
90 to 94	5	3	8	7,833	3,040	10,873
95 & Up	0	0	0	0	0	0
Total	358	381	739	\$900,926	\$946,113	\$1,847,039



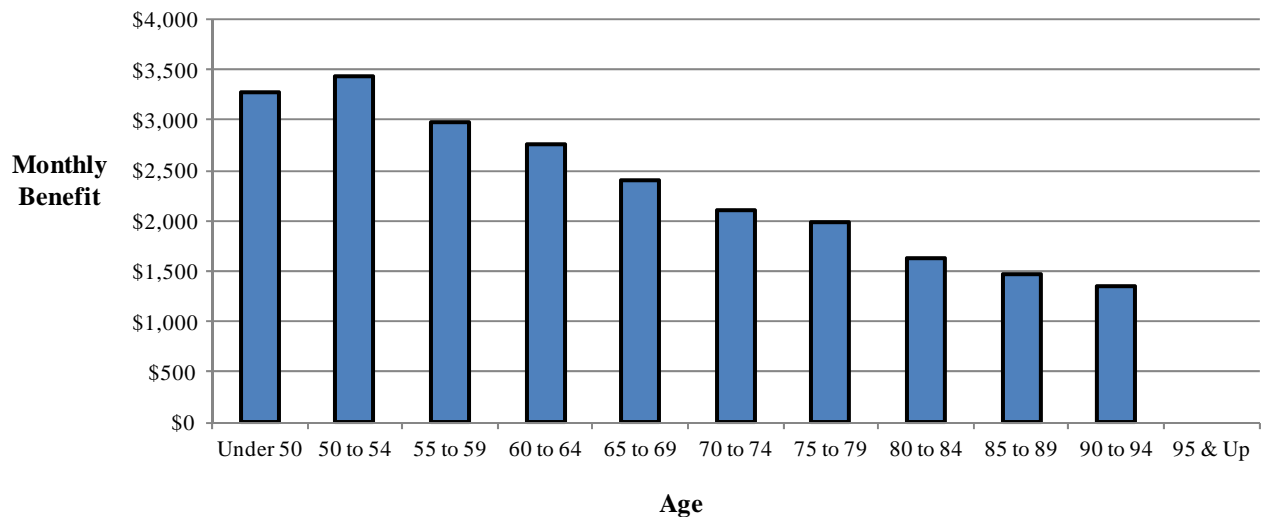


**SUMMARY OF RETIRED MEMBERS**  
as of December 31, 2012

Total

Age	Number			Current Monthly Benefit at Retirement		
	Male	Female	Total	Male	Female	Total
Under 50	17	8	25	\$ 54,557	\$27,226	\$ 81,783
50 to 54	54	2	56	186,820	6,025	192,845
55 to 59	123	3	126	368,431	6,463	374,894
60 to 64	150	1	151	414,636	2,058	416,694
65 to 69	121	3	124	291,414	5,667	297,081
70 to 74	84	2	86	177,085	3,525	180,610
75 to 79	83	2	85	165,831	3,024	168,855
80 to 84	54	1	55	87,529	2,045	89,574
85 to 89	23	0	23	33,830	0	33,830
90 to 94	8	0	8	10,873	0	10,873
95 & Up	0	0	0	0	0	0
Total	717	22	739	\$1,791,006	\$56,033	\$1,847,039

**Average Benefit**







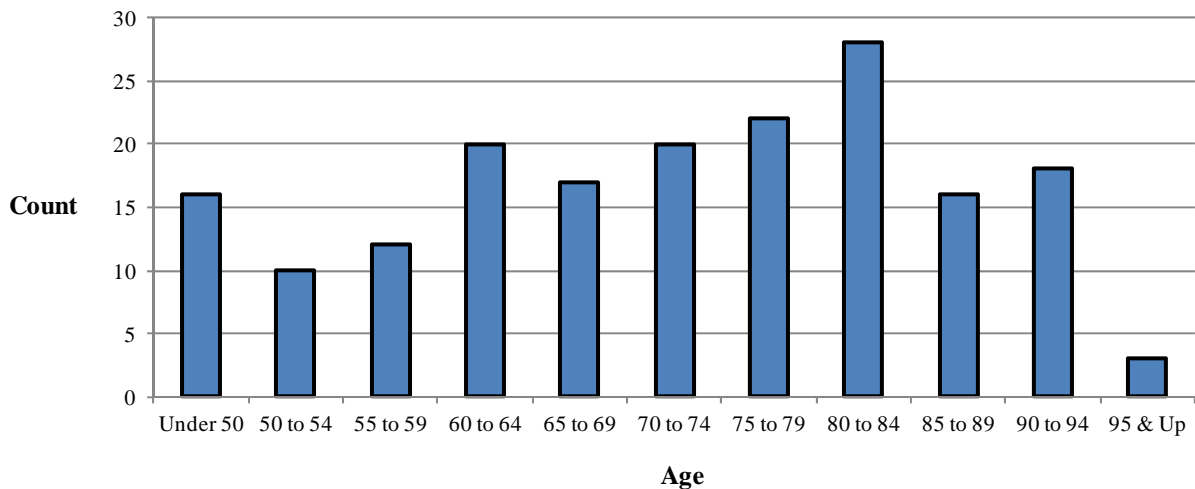
## SUMMARY OF BENEFICIARIES

as of December 31, 2012

Total

Age	Number			Current Monthly Benefit at Retirement		
	Police	Fire	Total	Police	Fire	Total
Under 50	9	7	16	\$ 6,412	\$ 9,194	\$ 15,606
50 to 54	5	5	10	5,747	9,378	15,125
55 to 59	6	6	12	8,737	14,221	22,958
60 to 64	6	14	20	12,512	22,611	35,123
65 to 69	13	4	17	21,290	5,157	26,447
70 to 74	10	10	20	13,798	17,541	31,339
75 to 79	9	13	22	14,565	20,349	34,914
80 to 84	16	12	28	22,510	15,175	37,685
85 to 89	5	11	16	5,223	11,084	16,307
90 to 94	5	13	18	4,284	12,754	17,038
95 & Up	3	0	3	2,605	0	2,605
Total	87	95	182	\$117,683	\$137,464	\$255,147

Age Distribution

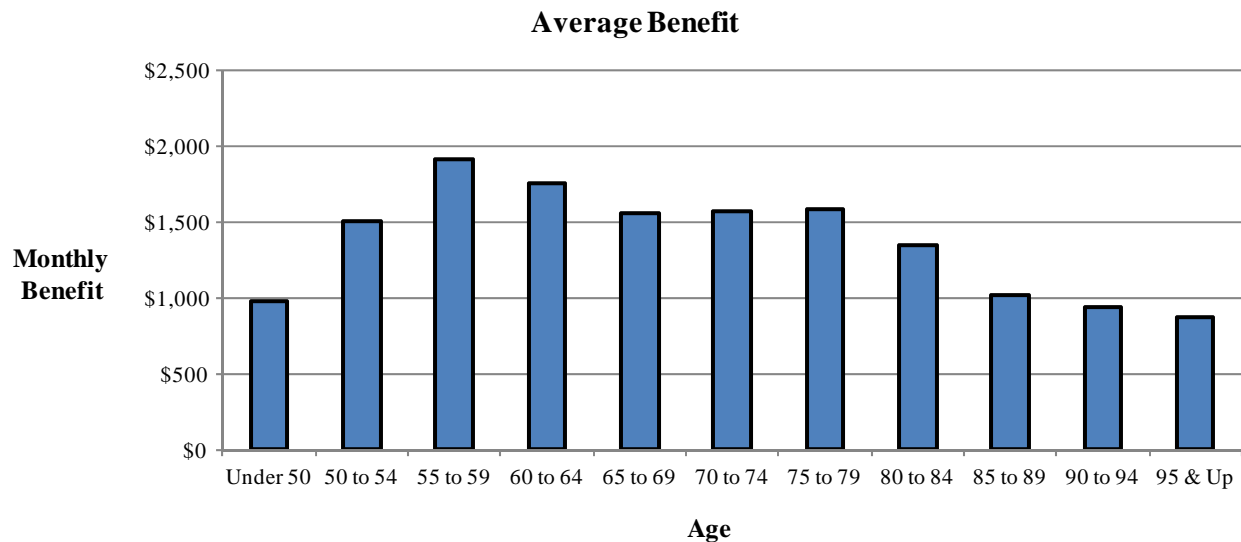




## SUMMARY OF BENEFICIARIES as of December 31, 2012

Total

Age	Number			Current Monthly Benefit at Retirement		
	Male	Female	Total	Male	Female	Total
Under 50	7	9	16	\$3,384	\$ 12,222	\$ 15,606
50 to 54	0	10	10	0	15,125	15,125
55 to 59	0	12	12	0	22,958	22,958
60 to 64	0	20	20	0	35,123	35,123
65 to 69	1	16	17	2,232	24,215	26,447
70 to 74	0	20	20	0	31,339	31,339
75 to 79	0	22	22	0	34,914	34,914
80 to 84	0	28	28	0	37,685	37,685
85 to 89	0	16	16	0	16,307	16,307
90 to 94	0	18	18	0	17,038	17,038
95 & Up	0	3	3	0	2,605	2,605
Total	8	174	182	\$5,616	\$249,531	\$255,147





## **APPENDIX B: SUMMARY OF BENEFIT PROVISIONS**

---

### **Summary of Benefit Provisions**

**Plan A** is applicable to members who entered the System between January 1, 1965 and December 31, 1978 and members who entered prior to January 1, 1965 and elected Plan A coverage.

**Plan B** is applicable to members who entered the System prior to January 1, 1965 and elected Plan B coverage.

**Plan C** is applicable to members entering the System after December 31, 1978.

#### **SERVICE RETIREMENT**

**Eligibility – Plan A and Plan B:** 20 years of service, regardless of age.

**Eligibility – Plan C:** 30 years of service, regardless of age; or 20 years of service at age 50; or 10 years of service, but less than 20 years at age 55.

**Amount of Pension – all plans:** Service times 2.5% of Final Average Salary to a maximum of 75% of Final Average Salary.

**Final Average Salary – all plans:** Average for the 3 consecutive years of service which produce the highest average and which are within the last 10 years of service.

#### **DEFERRED RETIREMENT (VESTED TERMINATION)**

**Eligibility – all plans:** 10 years of service; 20 years of service required to be eligible for survivor benefits.

**Amount of Pension – all plans:** 2.5% of Final Average Salary times years of service with payments deferred until age 55 (age 50 for Plan C members with 20 or more years of service). Vested deferred pensions for Plan C are adjusted during the deferral period based on changes in National Average Earnings, up to 5.5% annual adjustments (effective for post-1999 terminations).

#### **SERVICE-CONNECTED DISABILITY**

**Eligibility – all plans:** Permanent inability to perform the duties of position; no service retirement.

**Amount of Pension – all plans:** 75% of final salary rate if accident, 50% if disease.

**Miscellaneous Conditions – all plans:** Pension plus earnings from gainful employment cannot exceed current salary for rank held at time of disability. Pension recomputed at age 55 using service retirement formula, updated final average salary and service credit for period of disability.



## **APPENDIX B: SUMMARY OF BENEFIT PROVISIONS**

---

### **NON-SERVICE DISABILITY**

**Eligibility – all plans:** Permanent inability to perform duties of position; requires 7 years of service and under age 55.

**Amount of Pension – all plans:** 30% of Final Average Salary plus 1% of Final Average Salary times service over 7 years; maximum is 50% of Final Average Salary.

**Miscellaneous Conditions – all plans:** Pension plus earnings from gainful employment cannot exceed current salary for rank held at time of disability.

### **SERVICE-CONNECTED DEATH**

**Eligibility – all plans:** Death resulting directly from service-connected causes; no service requirement.

**Amount of Pension – all plans:** Surviving spouse – 50% of final Salary plus 10% of final Salary for each child under age 18 to a maximum of 75% of final Salary; terminates upon remarriage prior to age 40 for pensions effective prior to January 1, 2000.

Children (no surviving spouse's pension payable) – 20% of final Salary for each child under age 18 to a maximum of 60% of final Salary.

### **NON-SERVICE DEATH**

**Eligibility – Plan A and Plan C:** Death after 3 years of service.

**Eligibility – Plan B:** Death after 20 years of service.

**Amount of Pension – Plan A and Plan C:** Surviving spouse – 35% of Final Average Salary plus 1% of Final Average Salary for each year of service over 3 to a maximum of 50% of Final Average Salary, plus 10% of Final Average Salary for each child under age 18 to an overall maximum of 66 2/3% of Final Average Salary; terminates upon remarriage prior to age 40 for pensions effective prior to January 1, 2000.

Children (no surviving spouse's pension payable) – 15% of Final Average Salary for each child under age 18 to a maximum of 50% of Final Average Salary.

**Amount of Pension – Plan B:** Surviving spouse – 50% of final Salary.

Children (no surviving spouse's pension payable) – children under 18 share equally a benefit of 50% of final Salary.



## **APPENDIX B: SUMMARY OF BENEFIT PROVISIONS**

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### **DEATH AFTER RETIREMENT**

**Eligibility – all plans:** Surviving spouse must have been married to retired employee for one year or more at time of death, if retired after January 1, 2000. If retired prior to January 1, 2000, must have been married to retired employee at retirement. Member must have retired with at least 20 years of service.

**Amount of Pension – Plan A and Plan C:** Surviving spouse – 35% of Final Average Salary plus 1% of Final Average Salary times Service over 3 years to a maximum of 50% of Final Average Salary, plus 10% of Final Average Salary for each child under 18 to an overall maximum of 66 2/3% of Final Average Salary. Post-retirement adjustments are granted from date of retirement to date of death. Terminates upon remarriage prior to age 40 for those retiring prior to January 1, 2000.

Children (no surviving spouse's pension payable) – 15% of Final Average Salary for each child under age 18 to a maximum of 50% of Final Average Salary.

**Amount of Pension – Plan B:** Surviving spouse – 50% of final Salary.

Children (no surviving spouse's pension payable) – children under 18 share equally a benefit of 50% of final Salary.

### **NON-VESTED TERMINATION**

**Eligibility – all plans:** Termination of employment and no pension is or will become payable.

**Amount of Benefit – all plans:** Refund of member's contributions plus 5% annual interest.

### **FUNERAL BENEFIT**

**Eligibility – Plan A and Plan C:** Death of member who retired after November 21, 1973.

**Eligibility – Plan B:** Death of retired member

**Amount of Benefit – Plan A and Plan C:** \$750

**Amount of Benefit – Plan B:** \$100 if member retired on or prior to November 21, 1973; \$750 if member retired after November 21, 1973.

### **POST-RETIREMENT ADJUSTMENTS OF PENSIONS**

**Eligibility – all plans:** Completion of 36 months of retirement.

**Annual Amount – all plans:** 2% of the original base amount of benefit (simple COLA).



## **APPENDIX B: SUMMARY OF BENEFIT PROVISIONS**

---

### **BACKDROP (DEFERRED RETIREMENT OPTION PLAN)**

**Eligibility:** Member must be eligible to retire under service retirement provisions at the effective date of the BackDROP.

**Amount:** Under the BackDROP, the member may elect a benefit based on a retirement date up to 60 months prior to the current date. The monthly benefit is computed based on service, Final Average Salary and benefit formula at the selected prior date. The DROP account available to the retiring member is the computed benefit multiplied by the number of months of BackDROP plus applicable post-retirement adjustments and 5% annual interest, compounded monthly. Members are eligible to elect a sixty month BackDROP beginning January 1, 2003.

### **EMPLOYEE CONTRIBUTIONS**

Plan A: 8% of salary  
Plan B: 6% of salary  
Plan C: 7% of salary

These member contribution rates include the 1% decrease effective in 1998 in recognition of the full funding of actuarial liabilities.

### **CITY CONTRIBUTIONS**

Actuarially determined amounts sufficient to satisfy K.S.A. 1977 Suppl. 12-5002.

### **UNUSED SICK LEAVE**

Each bi-weekly service credit of accumulated unused sick leave is converted to a service credit for the purpose of computing annual benefit amounts.



## **APPENDIX C: ACTUARIAL COST METHOD AND ASSUMPTIONS**

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### **ACTUARIAL COST METHOD**

The actuarial cost method is a procedure for allocating the actuarial present value of pension benefits and expenses to time periods. The method used for the valuation is known as the Entry Age Normal actuarial cost method, and has the following characteristics:

- (i) The annual normal costs for each individual active member are sufficient to accumulate the value of the member's pension at time of retirement.
- (ii) Each annual normal cost is a constant percentage of the member's year-by-year projected covered compensation.
- (iii) Normal costs for Plans A and B (closed plans) were based on Plan C (open plan) assumptions and benefit conditions.

The Entry Age Normal actuarial cost method allocates the actuarial present value of each member's projected benefits on a level basis over the member's assumed pensionable compensation rates between the entry age of the member and the assumed exit ages. By applying the Entry Age Normal cost method in the fashion described in (iii), the ultimate normal cost will remain level as a percent of active member payroll (if actuarial assumptions are realized) as Plan A and Plan B members leave active status and are replaced by members entering Plan C.

The portion of the actuarial present value allocated to the valuation year is called the normal cost. The portion of the actuarial present value not provided for by the actuarial present value of future normal costs is called actuarial liability. Deducting actuarial assets from the actuarial liability determines the unfunded actuarial liability or (surplus). The unfunded actuarial liability/(surplus) is financed as a level percent of member payroll over an open 20-year period.

### **ACTUARIAL ASSUMPTIONS**

Retirement System contribution requirements and actuarial present values are calculated by applying experience assumptions to the benefit provisions and membership information of the Retirement System, using the actuarial cost method.

The principal areas of risk which require experience assumptions about future activities of the Retirement System are:

- (i) Long-term rates of investment return to be generated by the assets of the System
- (ii) Patterns of pay increases to members
- (iii) Rates of mortality among members, retirees and beneficiaries
- (iv) Rates of withdrawal of active members
- (v) Rates of disability among active members
- (vi) The age patterns of actual retirements



## APPENDIX C: ACTUARIAL COST METHOD AND ASSUMPTIONS

In making a valuation, the monetary effect of each assumption is calculated for as long as a present current member survives – a period of time which can be as long as a century.

Actual experience of the Retirement System will not coincide exactly with assumed experience. Each valuation provides a complete recalculation of assumed future experience and takes into account all past differences between assumed and actual experiences. The result is a continual series of adjustments (usually small) to the computed contribution rate.

From time to time, one or more of the assumptions are modified to reflect experience trends (but not random or temporary year-to-year fluctuations). A complete review of the actuarial assumptions was completed in 2009. The use of updated assumptions was effective with the December 31, 2009 valuation.

**Investment Rate of Return** (net of administrative expenses): This assumption is 7.75% a year, compounded annually and consists of 3.5% long-term price inflation and a 4.25% real rate of return over price inflation. This assumption, used to equate the value of payments due at different points in time, was adopted by the Board and was first used for the December 31, 1980 valuation, although the allocation between inflation and real return has changed periodically, most recently in 2009.

**Salary Increase Rates:** These rates are used to project current salary amounts to those upon which a benefit will be based.

Years of Service	Annual Rate of Salary Increase for Sample Service Durations			
	Inflation Component	Productivity Component	Merit and Longevity	Total
1	3.50%	0.50%	2.75%	6.75%
5	3.50	0.50	2.75	6.75
10	3.50	0.50	2.75	6.75
15	3.50	0.50	2.75	6.75
20	3.50	0.50	1.00	5.00
25	3.50	0.50	1.00	5.00
30	3.50	0.50	1.00	5.00

The assumption was first used for the December 31, 2009 valuation.

The salary increase assumptions will produce 4.0% annual increases in active member payroll (the inflation and productivity base rate) given a constant active member group size. This is the same payroll growth assumption used to amortize the unfunded actuarial liability. The real rate of return over assumed wage growth is 3.75% per year.

Changes actually experienced in average pay and total payroll have been as follows:

	Year Ended					5 Year (Average) Compounded Annual Increase
	12/31/12	12/31/11	12/31/10	12/31/09	12/31/08	
Average Pay	(0.3)%	0.2%	0.7%	3.2%	6.4%	2.6%
Total Payroll	(0.7)%	0.1%	(0.3)%	5.5%	4.8%	3.0%





## APPENDIX C: ACTUARIAL COST METHOD AND ASSUMPTIONS

**Mortality Table:** This assumption is used to measure the probabilities of members dying.

Healthy Retirees

And Beneficiaries: RP-2000 Healthy Annuitant Table for Males and Females

Disabled Retirees: RP-2000 Disabled Table for Males and Females

Active Members: RP-2000 Employee Table for Males and Females

The RP-2000 Tables are used with generational mortality.

Sample Ages <sup>(1)</sup>	Present Value of \$1 Monthly for Life		Future Life Expectancy (Years)	
	Men	Women	Men	Women
50	\$138.63	\$141.98	32.3	34.6
55	132.05	135.41	27.6	29.7
60	122.80	127.04	23.0	25.1
65	111.13	116.91	18.5	20.7
70	97.31	104.80	14.5	16.7
75	81.63	90.90	10.9	13.0
80	65.36	75.76	7.9	9.8
85	49.97	60.20	5.6	7.1

(1) Ages in 2000

This table was first used for the December 31, 2004 actuarial valuation.

**Rates of Retirement and BackDROP (Deferred Retirement Option Plan) Elections:** This assumption is used to measure the probability of eligible members retiring from active employment and applicable elections under the BackDROP program.

Percent Retiring within Year					
Service of Member	Plans A & B		Age of Member	Plan C	
	Police	Fire		Police	Member
28 or less	5%	5%	50	10%	5%
29	5	5	51	10	5
30	10	5	52	10	5
31	10	5	53	10	10
32	30	25	54	10	10
33	50	25	55	10	10
34	50	25	56	30	20
35	100	100	57	30	20
Over 35	100	100	58	30	20
			59	30	20
			60	100	100
			Over 60	100	100

These rates were first used for the December 31, 2009 valuation.



## APPENDIX C: ACTUARIAL COST METHOD AND ASSUMPTIONS

In addition, we assumed members who retire under service retirement provisions elect a BackDROP of up to 60 months which maximizes the actuarial value of the retirement benefit determined as of the retirement date. For the determination of actuarial value, the funding valuation assumptions are used.

**Rates of Separation from Active Membership:** This assumption measures the probabilities of a member terminating employment. The rates do not apply to members who are eligible to retire.

Sample Ages	Years of Service	Percent Separating Within Year	
		Police	Fire
ALL	0	10.00%	8.00%
	1	8.00	6.00
	2	6.00	4.50
	3	4.00	3.00
	4	3.00	2.00
25	Over 4	3.00	1.00
30		3.00	1.00
35		2.50	0.95
40		1.90	0.85
45		0.70	0.50
50		0.00	0.00
55		0.00	0.00

These rates were first used for the December 31, 2009 valuation.

**Forfeiture of Vested Benefits:** The assumption is that a percentage of the actuarial present value of vested termination benefits will be forfeited by a withdrawal of accumulated contributions.

Years of Service	Percent Forfeiting
10-14	100%
15 or more	0

This table was first used for the December 31, 2004 actuarial valuation.

**Rates of Disability:** This assumption measures the probabilities of a member becoming disabled.

Sample Ages	% of Active Members Becoming Disabled During Next Year	
	Police	Fire
20	0.10%	0.09%
25	0.16	0.14
30	0.33	0.30
35	0.55	0.49
40	0.77	0.68
45	0.98	0.87
50	1.20	1.06
55	1.42	1.14



## **APPENDIX C: ACTUARIAL COST METHOD AND ASSUMPTIONS**

---

These rates were first used for the December 31, 1999 valuation.

**Rates of Recovery from Disability:** Assumed to be zero.

**Administrative Expenses:** Assumed to be paid from investment earnings.

**Active Member Group Size:** Assumed to remain constant.

**Vested Deferred Pensions:** Amounts for Plan C are assumed to increase during the deferral period at 4.0% per year. This assumption was changed with the December 31, 2009 valuation.

### **MISCELLANEOUS AND TECHNICAL ASSUMPTIONS**

**Marriage Assumption:** 80% of non retired participants are assumed to be married for purposes of death benefits. In each case, the male was assumed to be 3 years older than the female.

**Service Related Death and Disability:** All active member deaths and 75% of active member disablements are assumed to be service related.

**Pay Increase Timing:** Assumed to be mid-year.

**Decrement Timing:** Decrements of all types are assumed to occur mid-year.

**Eligibility Testing:** Eligibility for benefits is determined based upon the age nearest birthday and service nearest whole year at the start of the year in which the decrement is assumed to occur.

**Benefit Service:** Service calculated to the nearest month, as of the decrement date, is used to determine the amount of benefit payable.

**Other:** The turnover decrement does not operate during retirement eligibility.

**Miscellaneous Loading Factors:** The calculated normal retirement benefits were increased by 4% to account for the inclusion of unused sick leave in the calculation of Service. This assumption was changed with the December 31, 2004 valuation.



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## **APPENDIX D: GLOSSARY OF TERMS**

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<b>Actuarial Liability</b>	The difference between the actuarial present value of system benefits and the actuarial present value of future normal costs. Also referred to as “accrued liability” or “actuarial liability”
<b>Actuarial Assumptions</b>	Estimates of future experience with respect to rates of mortality, disability, turnover, retirement, rate or rates of investment income and salary increases. Decrement assumptions (rates of mortality, disability, turnover and retirement) are generally based on past experience, often modified for projected changes in conditions. Economic assumptions (salary increases and investment income) consist of an underlying rate in an inflation-free environment plus a provision for a long-term average rate of inflation.
<b>Accrued Service</b>	Service credited under the system which was rendered before the date of the actuarial valuation.
<b>Actuarial Equivalent</b>	A single amount or series of amounts of equal actuarial value to another single amount or series of amounts, computed on the basis of appropriate assumptions.
<b>Actuarial Cost Method</b>	A mathematical budgeting procedure for allocating the dollar amount of the actuarial present value of retirement system benefit between future normal cost and actuarial liability; sometimes referred to as the “actuarial funding method”.
<b>Experience Gain (Loss)</b>	The difference between actual experience and actuarial assumptions anticipated experience during the period between two actuarial valuation dates.
<b>Actuarial Present Value</b>	The amount of funds currently required to provide a payment or series of payments in the future. It is determined by discounting future payments at predetermined rates of interest and by probabilities of payment.
<b>Amortization</b>	Paying off an interest-discounted amount with periodic payments of interest and principal, as opposed to paying off with lump sum payment.
<b>Normal Cost</b>	The actuarial present value of retirement system benefits allocated to the current year by the actuarial cost method.
<b>Unfunded Actuarial Liability</b>	<p>The difference between actuarial liability and the valuation assets.</p> <p>Most retirement systems have unfunded actuarial liability. They arise each time new benefits are added and each time an actuarial loss is realized.</p> <p>The existence of unfunded actuarial liability is not in itself bad, anymore than a mortgage on a house is bad. Unfunded actuarial liability does not represent a debt that is payable today. What is important is the ability to amortize the unfunded actuarial liability and the trend in its amount.</p>



**Cavanaugh Macdonald**  
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*The experience and dedication you deserve*

## **Wichita Employees' Retirement System**

**Actuarial Valuation as of December 31, 2012**



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## **TABLE OF CONTENTS**

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<b><u>Section</u></b>	<b><u>Page</u></b>
Actuarial Certification Letter	
Section I – Executive Summary	1
Section II – Scope of the Report	9
Section III – Assets	11
Table 1 – Analysis of Net Assets at Market Value	12
Table 2 – Summary of Changes in Net Assets	13
Table 3 – Development of Actuarial Value of Assets	14
Section IV – System Liabilities	15
Table 4 – Present Value of Future Benefits (PVFB)	16
Table 5 – Actuarial Liability	17
Table 6 – Present Value of Accrued Benefits	18
Section V – Employer Contributions	19
Table 7 – Derivation of Unfunded Actuarial Liability Contribution Rate	20
Table 8 – Derivation of Normal Cost Rate	21
Table 9 – Employer Contribution Rates	22
Table 10 – Historical Summary of City Contribution Rates	23
Table 11 – Derivation of System Experience Gain/(Loss)	24
Section VI – Accounting Information	25
Table 12 – Required Supplementary Information Schedule of Funding Progress	26
Table 13 – Required Supplementary Information Schedule of Employer Contributions	27
Table 14 – Solvency Test	28
<b><u>Appendices</u></b>	
A. Summary of Membership Data	29
B. Summary of Benefit Provisions	49
C. Actuarial Cost Method and Assumptions	53
D. Glossary of Terms	59



# Cavanaugh Macdonald

## CONSULTING, LLC

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April 1, 2013

The Board of Trustees  
Wichita Employees' Retirement System  
City Hall, 12<sup>th</sup> Floor  
455 N. Main Street  
Wichita, KS 67202

Dear Members of the Board:

In accordance with your request, we have completed an actuarial valuation of the Wichita Employees' Retirement System as of December 31, 2012. The major findings of the valuation are contained in this report, including the contribution rate for fiscal year 2014. The plan provisions, actuarial assumptions, and actuarial methods are the same as the prior valuation.

This is the first valuation prepared by Cavanaugh Macdonald Consulting, LLC (CMC). As part of our transition work, we replicated the December 31, 2011 actuarial valuation. While results were well within acceptable limits, the CMC calculated normal cost rate was slightly lower than the prior actuary's (13.0% vs. 13.2%). The actuarial liability, calculated by CMC, was slightly lower (\$554.9 million vs. \$555.2 million) than that shown in the December 31, 2011 actuarial valuation report. These differences are neither unusual nor significant. It is very common for differences in valuation results to occur due to the use of different pension valuation software.

In preparing this report, we relied, without audit, on information (some oral and some in writing) supplied by the System's staff. This information includes, but is not limited to, plan provisions, member data, and financial information. We found this information to be reasonably consistent and comparable with information for the last valuation that was provided by the prior actuary. The valuation results depend on the integrity of the data provided. If any of this information is inaccurate or incomplete, our valuation results may be different and our calculation may need to be revised.

Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period or additional cost or contribution requirements based on the System's funded status); and changes in plan provisions or applicable law. Due to the limited scope of our assignment, we did not perform an analysis of the potential range of future measurements.

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Actuarial computations presented in this report are for purposes of determining the actuarial contribution rates for funding the System. Actuarial computations presented in this report under GASB Statements No. 25, 27, and 50 are for purposes of fulfilling financial accounting requirements. The computations prepared for these two purposes may differ as disclosed in our report. The calculations in the enclosed report have been made on a basis consistent with our understanding of the System's funding requirements and goals, and of GASB Statements No. 25, 27, and 50. Determinations for purposes other than meeting these requirements may be significantly different from the results contained in this report. Accordingly, additional determinations may be needed for other purposes.

The consultants who worked on this assignment are pension actuaries. CMC's advice is not intended to be a substitute for qualified legal or accounting counsel.

This is to certify that the independent consulting actuaries are members of the American Academy of Actuaries and have experience in performing valuations for public retirement plans, that the valuation was prepared in accordance with principles of practice prescribed by the Actuarial Standards Board, and that the actuarial calculations were performed by qualified actuaries in accordance with accepted actuarial procedures, based on the current provisions of the retirement plan and on actuarial assumptions that are internally consistent and reasonably based on the actual experience of the System. The Board of Trustees has the final decision regarding the appropriateness of the assumptions and adopted them as indicated in Appendix C.

We respectfully submit the following report and look forward to discussing it with you.

Sincerely,

A handwritten signature in blue ink that reads 'Patrice Beckham' in a cursive script.

Patrice A. Beckham, FSA, EA, FCA, MAAA  
Principal and Consulting Actuary

A handwritten signature in blue ink that reads 'Brent A. Banister' in a cursive script.

Brent A. Banister, PhD, FSA, EA, FCA, MAAA  
Chief Pension Actuary



## SECTION I: EXECUTIVE SUMMARY

---

This report presents the results of the December 31, 2012 actuarial valuation of the Wichita Employees' Retirement System. The primary purposes of performing a valuation are to:

- estimate the liabilities for the benefits provided by the System,
- determine the employer contribution rates required to fund the System on an actuarial basis,
- disclose certain asset and liability measures as of the valuation date,
- monitor any deviation between actual plan experience and experience projected by the actuarial assumptions, so that recommendations for assumption changes can be made when appropriate,
- analyze and report on any significant trends in contributions, assets and liabilities over the past several years.

There have been no changes in the benefit provisions, actuarial assumptions, or actuarial methods from the last valuation.

This is the first valuation prepared by Cavanaugh Macdonald Consulting, LLC (CMC). As part of our transition work, we replicated the December 31, 2011 actuarial valuation. While results were well within acceptable limits, the CMC calculated normal cost rate was slightly lower than the prior actuary's (13.0% vs. 13.2%). The actuarial liability, calculated by CMC, was slightly lower (\$554.9 million vs. \$555.2 million) than that shown in the December 31, 2011 actuarial valuation report. These differences are neither unusual nor significant. It is very common for differences in valuation results to occur due to the use of different pension valuation software.

The System had an unfunded actuarial liability of \$41.9 million in the December 31, 2011 valuation, which has increased in the December 31, 2012 valuation to an unfunded actuarial liability of \$51.5 million. A detailed analysis of the change in the unfunded actuarial liability from December 31, 2011 to December 31, 2012 is shown in page 3. The actuarial valuation results provide a "snapshot" view of the System's financial condition on December 31, 2012. The valuation results reflect net unfavorable experience for the past plan year as demonstrated by an unfunded actuarial liability that was higher than expected based on the actuarial assumptions used in the December 31, 2011 actuarial valuation. Unfavorable experience on the actuarial value of assets resulted in an actuarial loss of \$8.5 million and experience on liabilities resulted in a loss of \$0.1 million. The total experience was an actuarial loss of \$8.6 million.

The System uses an asset smoothing method in the valuation process. As a result, the System's funded status and the actuarial contribution rate are based on the actuarial (smoothed) value of assets – not the market value. Due to deferred investment losses the return on the actuarial value of assets in 2012 was 6.1%, despite a return on a market value basis of 13.3%. Because the investment return on the actuarial value of assets is less than the actuarially assumed rate of return of 7.75%, it is considered to be an actuarial loss on investments. Under the asset smoothing method used in the valuation process, a portion of this investment loss is deferred to future years. Due to the high return on the market value of assets, the deferred (unrecognized) investment loss decreased from \$54 million in the December 31, 2011 valuation to \$26 million in the December 31, 2012 valuation. Actual returns over the next few years will determine when and how the \$26 million of deferred investment loss is recognized. For example, a return of 13.5% on the market value of assets in 2013 would be necessary to attain a return of 7.75% on the actuarial value of assets and eliminate the deferred losses.

In the following pages the change in the assets, liabilities, and contributions of the System over the last year are discussed in more detail.



## SECTION I: EXECUTIVE SUMMARY

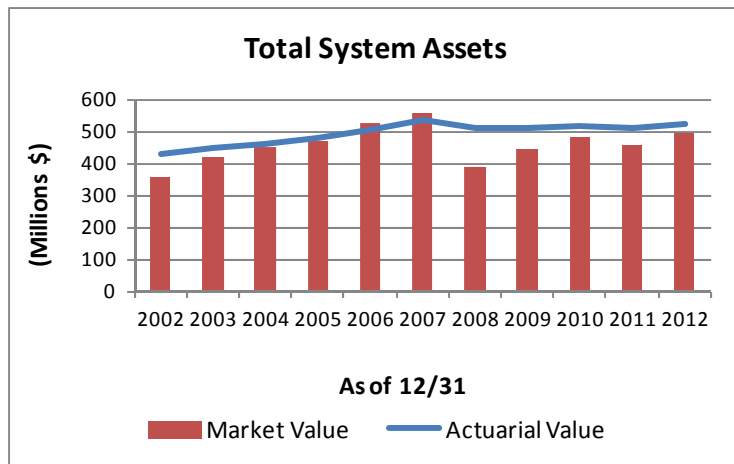
### ASSETS

As of December 31, 2012, the System had total assets of \$494.7 million when measured on a market value basis. This was an increase of \$35.9 million from the December 31, 2011 figure of \$458.8 million. The market value of assets is not used directly in the calculation of the City's contribution rate. An asset valuation method, which smoothes the effect of market fluctuations, is used to determine the value of assets used in the valuation, called the "actuarial value of assets". The actuarial value of assets is equal to the expected value (calculated using the actuarial assumed rate of 7.75%) plus 25% of the difference between the market and expected value. See Table 3 on page 12 for a detailed development of the actuarial value of assets. The rate of return on the actuarial value of assets was 6.1%. Due to a higher than expected return on the market value of assets in 2012, the actuarial value of assets is only 5% higher than the actual market value, as compared to 12% in last year's valuation.

The components of the change in the market and actuarial value of assets for the System (in millions) are set forth below:

	Market Value (\$M)	Actuarial Value (\$M)
Assets, December 31, 2011	\$458.8	\$513.3
- City and Member Contributions	10.9	10.9
- Benefit Payments, Refunds and Transfers	(34.2)	(34.2)
- Investment Income (net of expenses)	59.2	30.3
Assets, December 31, 2012	\$494.7	\$520.3

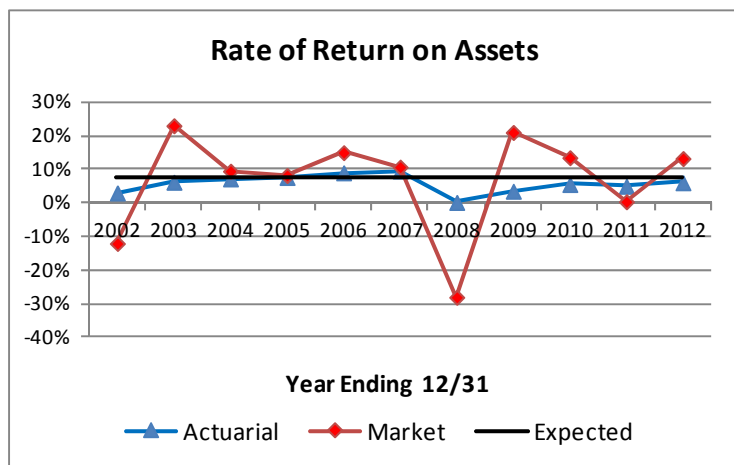
The unrecognized investment losses represent about 5% of the market value of assets. Unless offset by future investment gains or other favorable experience, the recognition of the \$26 million loss is expected to have an impact on the future funded ratio and actuarial contribution requirement. If the deferred losses were recognized immediately in the actuarial value of assets, the funded percentage would decrease from 91% to 87% and the actuarially determined contribution rate for the City would increase from 13.2% to 15.7%.



*The actuarial value of assets has both been greater than and less than the market value of assets during this period, which is expected when using a smoothing method.*



## SECTION I: EXECUTIVE SUMMARY



*The rate of return on the actuarial value of assets has been less volatile than the market value return, which is the main reason for using an asset smoothing method.*

### LIABILITIES

The actuarial liability is that portion of the present value of future benefits that will not be paid by future employer normal costs or member contributions. The difference between this liability and asset values at the same date is referred to as the unfunded actuarial liability (UAL), or (surplus) if the asset value exceeds the actuarial liability. The unfunded actuarial liability will be reduced if the employer's contributions exceed the employer's normal cost for the year, after allowing for interest earned on the previous balance of the unfunded actuarial liability. Benefit improvements, experience gains and losses, and changes in actuarial assumptions and procedures will also impact the total actuarial liability and the unfunded portion thereof.

The Actuarial Liability and Unfunded Actuarial Liability for the System as of December 31, 2012 are:

Actuarial Liability	\$571,805,455
Actuarial Value of Assets	<u>520,320,051</u>
Unfunded Actuarial Liability/(Surplus)	\$ 51,485,404

Between December 31, 2011 and December 31, 2012, the change in the unfunded actuarial liability for the System was as follows (in millions):

Change in Unfunded Actuarial Liability		(\$M)
UAL, December 31, 2011		\$41.9
+ Normal cost for year		9.0
+ Assumed investment return for year		3.6
- Actual contributions (member + city)		10.9
- Assumed investment return on contributions		0.4
= Expected Unfunded Actuarial Liability, December 31, 2012		43.2
+ Change in Actuary		(0.3)
+ Change from assumption changes		0.0
= Expected UAL after changes		42.9
Actual UAL, December 31, 2012		51.5
Experience gain/(loss)		\$(8.6)
(Expected UAL - Actual UAL)		

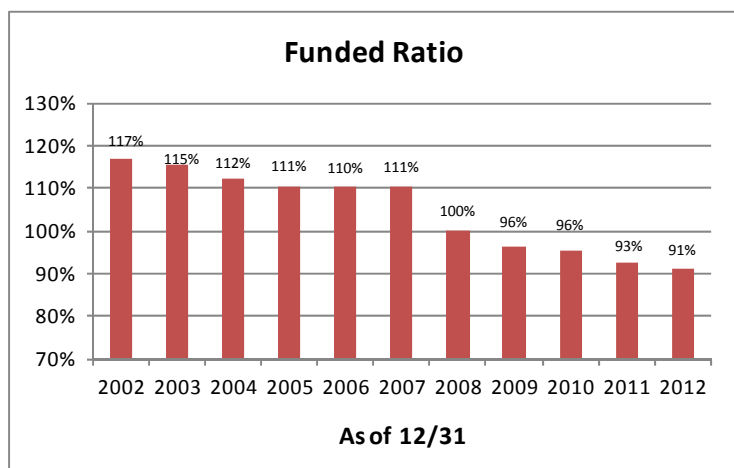


## SECTION I: EXECUTIVE SUMMARY

The experience loss for the 2012 plan year of \$8.6 million reflects the combined impact of an actuarial loss of about \$8.5 million on System assets (actuarial value), and an actuarial loss of about \$0.1 million on System liabilities.

Analysis of the unfunded actuarial liability strictly as a dollar amount can be misleading. Another way to evaluate the unfunded actuarial liability and the progress made in its funding is to track the funded status, the ratio of the actuarial value of assets to the actuarial liability. This information for recent years is shown below (in millions). Historical information is shown in the graph following the chart.

	12/31/2008	12/31/2009	12/31/2010	12/31/2011	12/31/2012
Actuarial Liability (\$M)	\$512.4	\$529.3	\$540.4	\$555.2	\$571.8
Actuarial Value of Assets (\$M)	\$512.9	\$509.5	\$516.3	\$513.3	\$520.3
Funded Ratio (Actuarial Value)	100.1%	96.3%	95.5%	92.5%	91.0%
Funded Ratio (Market Value)	75.3%	84.0%	88.9%	82.6%	86.5%



*The funded ratio has declined over the last decade due to various reasons including benefit improvements, assumption changes and most significantly, investment experience. There are still deferred investment losses that will be recognized in future years, absent investment returns above the 7.75% assumption. Without these gains, the funded ratio will continue to decline toward the market value percentage shown above.*

As mentioned earlier in this report, due to the asset smoothing method there is currently about a \$26 million difference between the actuarial value and the market value of assets. To the extent there is not favorable investment experience to offset the deferred losses, the \$26 million deferred loss will be recognized in future years and the System's funded status will decline. The System's funded status will continue to be heavily dependent on investment experience.

### CONTRIBUTION RATES

Generally, contributions to the System consist of:

- A "normal cost" for the portion of projected liabilities allocated to service of members during the year following the valuation date, by the actuarial cost method, and
- An "unfunded actuarial liability or (surplus) contribution" for the excess of the portion of projected liabilities allocated to service to date over the actuarial value of assets.

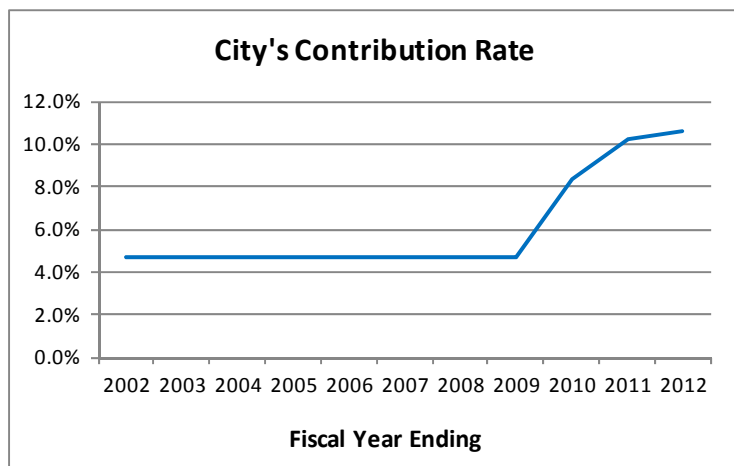


## SECTION I: EXECUTIVE SUMMARY

Contribution rates are computed with the objective of developing costs that are level as a percentage of covered payroll. The contribution rate for fiscal year 2014 is based on the December 31, 2012 actuarial valuation results.

As of December 31, 2012, the actuarial liability exceeds the actuarial value of assets so an unfunded actuarial liability (UAL) exists. When amortized over a rolling 20-year period, the resulting contribution is 5.0% of pay. The City's contribution rate is the sum of employer normal cost rate and the UAL amortization contribution. This valuation indicates the City's contribution should be 13.2% of pay (8.2% employer normal cost rate plus 5.0% UAL contribution).

A summary of the City's historical contribution rate for the System is shown below:



*The City's contribution rate will be 12.6% and 13.2% for the Fiscal Year Ending 12/31/2013 and 12/31/2014, respectively.*

### COMMENTS

The System does not use the actual market value of assets in developing the actuarial contribution rates, but utilizes an asset valuation method to smooth out the peaks and valleys in investment returns from year to year. Under the asset valuation method, the actuarial value of assets is determined as 75% of the expected value (using the actuarial assumed rate of return) and 25% of the actual market value. The net return on the market value of assets for 2012 was 13.3% which helped to offset some of the deferred investment losses that would otherwise have been recognized in the current valuation. However, even with the strong return on market value of assets in 2012, the return on the actuarial value of assets was 6.1%. As a result, the System experienced an actuarial loss on assets of \$8.5 million. This loss and the actuarial loss on liabilities of \$0.1 million combined for a total actuarial loss of \$8.6 million.

The deferred investment loss (actuarial value less market value of assets) has decreased to \$26 million from \$54 million in last year's valuation. Absent investment gains in future years, the deferred investment loss of \$26 million will eventually be reflected in the actuarial value of assets in future years. While the use of an asset smoothing method is a common procedure for public retirement systems, it is important to identify the potential impact of the deferred investment experience. This is accomplished by comparing the key valuation results from the December 31, 2012 actuarial valuation using both the actuarial and market value of assets (see table on next page).



## SECTION I: EXECUTIVE SUMMARY

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	Using Actuarial Value of Assets	Using Market Value of Assets
Actuarial Liability	\$571,805,455	\$571,805,455
Asset Value	\$520,320,051	\$494,708,674
Unfunded Actuarial Liability	\$ 51,485,404	\$ 77,096,781
Funded Ratio	91.0%	86.5%
Normal Cost Rate	12.9%	12.9%
UAL Contribution Rate	<u>5.0%</u>	<u>7.5%</u>
Total Contribution Rate	17.9%	20.4%
Employee Contribution Rate	<u>(4.7%)</u>	<u>(4.7%)</u>
Employer Contribution Rate	13.2%	15.7%

The experience loss on the actuarial value of assets resulted in the City's contribution rate rising to 13.2% which was expected based on last year's valuation results. The actuarial contribution rate to be paid by the City has been, and will continue to be, heavily impacted by investment returns from year to year. Despite the use of an asset smoothing method, actual returns that are significantly different from the 7.75% assumption tend to create volatility in the City's contribution rate.


**SUMMARY OF PRINCIPAL RESULTS**

	12/31/2012 <u>Valuation</u>	12/31/2011 <u>Valuation</u>	% <u>Change</u>
<b>1. PARTICIPANT DATA</b>			
Number of:			
Active Members			
Plan 1	2	2	0.0%
Plan 2	928	901	3.0%
Plan 3 (excluding Plan 3b)	527	611	(13.7)%
Total	1,457	1,514	(3.8)%
DROP Members			
Plan 1	24	29	(17.2)%
Plan 2	22	15	46.7%
Total	46	44	4.5%
Retired Members and Beneficiaries	1,302	1,310	(0.6)%
Inactive Members	142	146	(2.7)%
Total Members	2,947	3,014	(2.2)%
Annual Valuation Payroll of Active Members (Including DROP)			
Plan 1	\$ 1,535,362	\$ 1,784,308	(14.0)%
Plan 2	50,114,697	46,221,547	8.4%
Plan 3	21,347,008	23,270,960	(8.3)%
Total	\$ 72,997,067	\$ 71,276,815	2.4%
Annual Retirement Payments for Retired Members and Beneficiaries	\$ 33,472,332	\$ 32,885,454	1.8%
<b>2. ASSETS AND LIABILITIES</b>			
Total Actuarial Liability	\$ 571,805,455	\$ 555,173,723	3.0%
Market Value of Assets	494,708,674	458,827,503	7.8%
Actuarial Value of Assets	520,320,051	513,298,382	1.4%
Unfunded Actuarial Liability (UAL)	\$ 51,485,404	\$ 41,875,341	22.9%
Funded Ratio	91.0%	92.5%	(1.6)%
<b>3. EMPLOYER CONTRIBUTION RATES AS A PERCENT OF PAYROLL</b>			
Normal Cost	12.9%	13.2%	(2.3)%
Member Financed	(4.7)%	(4.7)%	0.0%
Employer Normal Cost	8.2%	8.5%	(3.5)%
Amortization of Unfunded Actuarial Liability or (Surplus)	5.0%	4.1%	22.0%
Employer Contribution Rate	13.2%	12.6%	4.8%





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## SECTION II: SCOPE OF THE REPORT

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This report presents the actuarial valuation of the Wichita Employees' Retirement System as of December 31, 2012. This valuation was prepared at the request of the System's Board of Trustees. The report is based on plan provisions and actuarial assumptions that are unchanged from last year.

Please pay particular attention to our cover letter, where the guidelines employed in the preparation of this report are outlined. We also comment on the sources and reliability of both the data and the actuarial assumptions upon which our findings are based. Those comments are the basis for our certification that this report is complete and accurate to the best of our knowledge and belief.

A summary of the findings resulting from this valuation is presented in the previous section. Section 3 describes the assets and investment experience of the System. Sections 4 and 5 describe how the obligations of the System are to be met under the actuarial cost method in use. Section 6 includes the information required for the financial reporting standards established by the Governmental Accounting Standards Board (GASB).

This report includes several appendices:

- Appendix A      Schedules of valuation data classified by various categories of members.
- Appendix B      A summary of the current benefit structure, as determined by the provisions of governing law on the valuation date.
- Appendix C      A summary of the actuarial methods and assumptions used to estimate liabilities and determine contribution rates.
- Appendix D      A glossary of actuarial terms.



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### **SECTION III: ASSETS**

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In many respects, an actuarial valuation can be thought of as an inventory process. The inventory is taken as of the actuarial valuation date, which for this valuation is December 31, 2012. On that date, the assets available for the payment of benefits are appraised. The assets are compared with the liabilities of the System. The actuarial process then leads to a method of determining the contributions needed by members and the employer in the future to balance the System assets and liabilities.

#### **MARKET VALUE OF ASSETS**

The current market value represents the “snapshot” or “cash-out” value of System assets as of the valuation date. In addition, the market value of assets provides a basis for measuring investment performance from time to time. At December 31, 2012, the market value of assets for the System was \$495 million. Table 1 is a comparison, at market values, of System assets as of December 31, 2012, and December 31, 2011, in total and by investment category. Table 2 summarizes the change in the market value of assets from December 31, 2011 to December 31, 2012.

#### **ACTUARIAL VALUE OF ASSETS**

Neither the market value of assets, representing a “cash-out” value of System assets, nor the book values of assets, representing the cost of investments, may be the best measure of the System’s ongoing ability to meet its obligations.

To arrive at a suitable value for the actuarial valuation, a technique for determining the actuarial value of assets is used which dampens swings in the market value while still indirectly recognizing market values. This methodology, first adopted for the December 31, 2002 valuation, smoothes market experience by recognizing 25% of the difference between expected value (based on the actuarial assumption) and market value. Table 3 shows the development of the actuarial value of assets (AVA) as of December 31, 2012.



**TABLE 1**  
**Analysis of Net Assets at Market Value**

	As of December 31, 2012		As of December 31, 2011	
	<u>Amount</u> <u>(\$ Millions)</u>	<u>% of</u> <u>Total</u>	<u>Amount</u> <u>(\$ Millions)</u>	<u>% of</u> <u>Total</u>
Cash and Equivalents	\$ 0.2	0.0%	\$ 0.2	0.0%
Government Securities	35.2	7.3	30.0	6.7
Corporate Debt	43.4	9.0	45.3	10.2
Mortgage Backed Securities	37.8	7.9	42.0	9.5
Pooled Funds	81.4	17.0	79.3	17.8
Domestic Equity	163.8	34.1	153.8	34.6
International Equity	78.2	16.3	69.4	15.6
Real Estate	16.8	3.5	15.7	3.5
Timber	10.0	2.1	4.7	1.1
Commodities	11.8	2.5	12.0	2.7
Securities Lending Collateral Pool	29.6	6.2	42.9	9.6
Other	0.2	0.0	0.2	0.1
Receivables	11.0	2.3	13.4	3.0
Liabilities	(39.7)	(8.2)	(64.3)	(14.5)
<b>Total Plans 1 and 2</b>	<u>\$ 479.7</u>	<u>100.0%</u>	<u>\$ 444.6</u>	<u>100.0%</u>
<b><u>Plan 3 Assets</u></b>				
Members Electing to Stay in Plan 3	\$ 4.6		\$ 3.8	
Other Plan 3 Members	15.0		14.3	
<b>Total Plan 3 and 3b</b>	<u>19.6</u>		<u>18.1</u>	
<b>Net Assets (Plans 1, 2, and 3)</b>	<u>\$ 499.3</u>		<u>\$ 462.7</u>	



**TABLE 2**  
**Summary of Changes in Net Assets**  
**During Year Ended December 31, 2012**

(Market Value)

	<u>Plans 1 &amp; 2</u>	<u>Plan 3*</u>	<u>Total</u>
1. Market Value of Assets as of December 31, 2011	\$ 444,594,411	\$ 14,233,092	\$ 458,827,503
2. Contributions:			
a. Members	\$ 2,343,641	\$ 1,031,580	\$ 3,375,221
b. City	6,471,423	1,031,580	7,503,003
c. Transfers	2,025,607	(2,343,909)	(318,302)
d. Total	\$ 10,840,671	\$ (280,749)	\$ 10,559,922
3. Investment Income:			
a. Interest and Dividends	\$ 11,762,769	\$ 373,028	\$ 12,135,797
b. Net Appreciation in Fair Value	48,375,859	1,492,086	49,984,132
c. Commission Recapture	18,686	596	19,282
d. Net Securities Lending Income	205,842	6,572	212,414
e. Total	\$ 60,363,156	\$ 1,872,282	\$ 62,351,625
4. Expenditures:			
a. Refunds of Member Contributions	\$ 341,634	\$ 620,798	\$ 962,432
b. Benefits Paid:			
(1) Pension and Death Benefits	31,604,120	0	31,604,120
(2) BackDROP Payments	1,327,860	0	1,327,860
c. Administrative Expenses	403,793	76,277	596,257
d. Investment Expenses	2,459,772	79,935	2,539,707
e. Total	\$ 36,137,179	\$ 777,010	\$ 37,030,376
5. Net Change [2(c) + 3(e) - 4(e)]	\$ 35,066,648	\$ 814,523	\$ 35,881,171
6. Market Value of Assets as of December 31, 2012 (1) + (5)	\$ 479,661,059	\$ 15,047,615	\$ 494,708,674

\* Excludes assets for Plan 3b members. The December 31, 2012 value of the assets for this group was \$4,590,782.



TABLE 3

Development of Actuarial Value of Assets  
as of December 31, 2012

	<u>Plans 1 &amp; 2</u>	<u>Plan 3*</u>	<u>Total</u>
1. Actuarial Value of Assets as of December 31, 2011	\$ 497,517,355	\$ 15,781,027	\$ 513,298,382
2. Actual Contributions/Disbursements			
a. Contributions	\$ 8,815,064	\$ 2,063,160	\$ 10,878,224
b. Transfers	2,025,607	(2,343,909)	(318,302)
c. Benefit Payments and Refunds	(33,273,614)	(620,798)	(33,894,412)
d. Net	\$ (22,432,943)	\$ (901,547)	\$ (23,334,490)
3. Expected Value of Assets as of December 31, 2012 [(1) * 1.0775] + [2(d) * (1.0775) <sup>-5</sup> ]	\$ 512,788,950	\$ 16,068,226	\$ 528,857,177
4. Market Value of Assets as of December 31, 2012	\$ 479,661,059	\$ 15,047,615	\$ 494,708,674
5. Difference Between Actual and Expected Values	\$ (33,127,891)	\$ (1,020,611)	\$ (34,148,503)
6. Actuarial Value of Assets as of December 31, 2012 (3) + [(5) * 0.25]	\$ 504,506,977	\$ 15,813,074	\$ 520,320,051
7. Actuarial Value of Assets Divided by Market Value of Assets	105.2%	105.1%	105.2%
8. Market Value of Assets Less Actuarial Value of Assets	\$ (24,845,918)	\$ (765,459)	\$ (25,611,377)

\* Excludes Plan 3b



## SECTION IV: SYSTEM LIABILITIES

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In the previous section, an actuarial valuation was compared with an inventory process, and an analysis was given of the inventory of assets of the System as of the valuation date, December 31, 2012. In this section, the discussion will focus on the commitments of the System, which are referred to as its liabilities.

Table 4 contains an analysis of the actuarial present value of all future benefits (PVFB) for contributing members, inactive members, retirees and their beneficiaries.

The liabilities summarized in Table 4 include the actuarial present value of all future benefits expected to be paid with respect to each member. For an active member, this value includes the measurement of both benefits already earned and future benefits to be earned. For all members, active and retired, the value extends over benefits earnable and payable for the rest of their lives and for the lives of the surviving beneficiaries.

All liabilities reflect the benefit provisions in place as of December 31, 2012.

### **ACTUARIAL LIABILITY**

A fundamental principle in financing the liabilities of a prefunded retirement program is that the cost of its benefits should be related to the period in which benefits are earned, rather than to the period of benefit distribution. An actuarial cost method is a mathematical technique that allocates the present value of future benefits into annual costs. In order to do this allocation, it is necessary for the funding method to “breakdown” the present value of future benefits into two components:

1. That which is attributable to the past and
2. That which is attributable to the future.

Actuarial terminology calls the part attributable to the past the “past service liability” or the “actuarial liability”. The portion allocated to the future is known as the present value of future normal costs, with the specific piece of it allocated to the current year being called the “normal cost”. Table 5 contains the calculation of actuarial liability to the System. The Entry Age Normal actuarial cost method is used to develop the actuarial liability.





TABLE 4

**Present Value of Future Benefits (PVFB)  
as of December 31, 2012**

	<u>Plan 1</u>	<u>Plan 2</u>	<u>Plan 3</u>	<u>Total</u>
1. Active Employees				
a. Retirement Benefit	\$ 683,810	\$ 201,067,029	\$ 36,498,963	\$ 238,249,802
b. Pre-Retirement Death Benefit	0	3,382,649	991,556	4,374,205
c. Withdrawal Benefit	0	11,257,043	5,259,264	16,516,307
d. Disability Benefit	0	5,264,637	1,451,363	6,716,000
e. Total	<u>\$ 683,810</u>	<u>\$ 220,971,358</u>	<u>\$ 44,201,146</u>	<u>\$ 265,856,314</u>
2. DROP Members				
a. DROP Account Balance	\$ 4,588,276	\$ 825,419	\$ 0	\$ 5,413,695
b. Monthly Retirement Benefit	<u>15,303,621</u>	<u>7,740,460</u>	<u>0</u>	<u>23,044,081</u>
c. Total	<u>\$ 19,891,897</u>	<u>\$ 8,565,879</u>	<u>\$ 0</u>	<u>\$ 28,457,776</u>
3. Inactive Vested Members	\$ 283,518	\$ 23,555,519	\$ 0	\$ 23,839,037
4. In Pay Members				
a. Retirees	\$ 213,119,855	\$ 84,343,066	\$ 0	\$ 297,462,921
b. Disabled Members	1,422,920	1,743,521	0	3,166,441
c. Beneficiaries	<u>17,741,692</u>	<u>5,140,205</u>	<u>0</u>	<u>22,881,897</u>
d. Total	<u>\$ 232,284,467</u>	<u>\$ 91,226,792</u>	<u>\$ 0</u>	<u>\$ 323,511,259</u>
5. Total Present Value of Future Benefits 1(e) + 2(c) + (3) + 4(d)	\$ 253,143,692	\$ 344,319,548	\$ 44,201,146	\$ 641,664,386



TABLE 5

Actuarial Liability  
as of December 31, 2012

	<u>Plan 1</u>	<u>Plan 2</u>	<u>Plan 3</u>	<u>Total</u>
1. Active Employees				
a. Present Value of Future Benefits	\$ 683,810	\$ 220,971,358	\$ 44,201,146	\$ 265,856,314
b. Present Value of Future Normal Costs	11,697	43,955,773	26,656,919	70,624,390
c. Actuarial Liability 1(a) - 1(b)	\$ 672,113	\$ 177,015,585	\$ 17,544,227	\$ 195,231,924
2. DROP Members	\$ 19,891,897	\$ 8,565,879	\$ 0	\$ 28,457,776
3. Inactive Vested Members	\$ 283,518	\$ 23,555,519	\$ 0	\$ 23,839,037
4. In Pay Members				
a. Retirees	\$ 213,119,855	\$ 84,343,066	\$ 0	\$ 297,462,921
b. Disabled Members	1,422,920	1,743,521	0	3,166,441
c. Beneficiaries	17,741,692	5,140,205	0	22,881,897
d. Total	\$ 232,284,467	\$ 91,226,792	\$ 0	\$ 323,511,259
5. Reserve for Plan 3 Members	\$ 0	\$ 0	\$ 765,459	\$ 765,459
6. Total Actuarial Liability 1(c) + (2) + (3) + 4(d) + (5)	\$ 253,131,994	\$ 300,363,775	\$ 18,309,685	\$ 571,805,455



TABLE 6

**Present Value of Accrued Benefits  
as of December 31, 2012**

The present value of accrued benefits for the System reflects the benefits earned based on service, earnings, and the System provisions as of the valuation date. It also reflects the on-going nature of the System by using the same actuarial assumptions as are used for funding purposes. Further, because the System provides that the accrued benefits of deferred vested members are indexed until benefits begin, the present value of the accrued benefit liability for active members reflects this provision from the assumed termination of employment to the assumed benefit commencement date.

	<u>Plan 1</u>	<u>Plan 2</u>	<u>Plan 3</u>	<u>Total</u>
1. Active Employees	\$ 683,810	\$ 121,354,401	\$ 7,794,688	\$ 129,832,899
2. DROP Members	\$ 19,891,897	\$ 8,565,879	\$ 0	\$ 28,457,776
3. Inactive Vested Members	\$ 283,518	\$ 23,555,519	\$ 0	\$ 23,839,037
4. In Pay Members				
a. Retirees	\$ 213,119,855	\$ 84,343,066	\$ 0	\$ 297,462,921
b. Disabled Members	1,422,920	1,743,521	0	3,166,441
c. Beneficiaries	17,741,692	5,140,205	0	22,881,897
d. Total	\$ 232,284,467	\$ 91,226,792	\$ 0	\$ 323,511,259
5. Total	\$ 253,143,692	\$ 244,702,591	\$ 7,794,688	\$ 505,640,971
6. Market Value of Assets*	\$ 247,584,863	\$ 239,329,123	\$ 7,794,688	\$ 494,708,674
7. Funded Ratio (6)/(5)	98%	98%	100%	98%

\* Split of assets between Plan 1 and Plan 2 is in proportion to the liabilities for illustrative purposes only.



## **SECTION V: EMPLOYER CONTRIBUTIONS**

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The previous two sections were devoted to a discussion of the assets and liabilities of the System. A comparison of Tables 3 and 4 indicates that current assets fall short of meeting the present value of future benefits (total liability). This is expected in all but a completely closed fund, where no further contributions are anticipated. In an active system, there will almost always be a difference between the actuarial value of assets and total liabilities. This deficiency has to be made up by future contributions and investment returns. An actuarial valuation sets out a schedule of future contributions that will deal with this deficiency in an orderly fashion.

The method used to determine the incidence of the contributions in various years is called the actuarial cost method. Under an actuarial cost method, the contributions required to meet the difference between current assets and current liabilities are allocated each year between two elements: (1) the normal cost rate and (2) the unfunded actuarial liability contribution rate.

The term “fully funded” is often applied to a system in which contributions at the normal cost rate are sufficient to pay for the benefits of existing employees as well as for those of new employees. More often than not, systems are not fully funded, either because of past benefit improvements that have not been completely funded or because of actuarial deficiencies that have occurred because experience has not been as favorable as anticipated. Under these circumstances, an unfunded actuarial liability (UAL) exists. Likewise, when the actuarial value of assets is greater than the actuarial liability, a surplus exists.

### **DESCRIPTION OF CONTRIBUTION RATE COMPONENTS**

The Entry Age Normal (EAN) actuarial cost method is used for the valuation. Under this method, the normal cost for each year from entry age to assumed exit age is a constant percentage of the member’s year by year projected compensation. The portion of the present value of future benefits not provided by the present value of future normal costs is the actuarial liability. The unfunded actuarial liability/(surplus) represents the difference between the actuarial liability and the actuarial value of assets as of the valuation date. The unfunded actuarial liability is calculated each year and reflects experience gains/(losses).

In general, contributions are computed in accordance with a level percent-of-payroll funding objective. The contribution rates based on this December 31, 2012 actuarial valuation will be used to determine employer contribution rates to the Wichita Employees’ Retirement System for fiscal year 2014. In this context, the term “contribution rate” means the percentage, which is applied to a particular active member payroll to determine the actual employer contribution amount (i.e., in dollars) for the group.

As of December 31, 2012, the valuation assets were less than the actuarial liability so an unfunded actuarial liability exists. The City’s funding policy is to amortize the UAL over a rolling 20-year period. The amortization of the UAL results in an employer contribution that is more than the employer normal cost rate.

### **CONTRIBUTION RATE SUMMARY**

In Table 7, the amortization payment related to the unfunded actuarial liability/(surplus), as of December 31, 2012, is developed. Table 8 develops the normal cost rate for the System. The derivation of the total contribution rate for the City is shown in Table 9. Table 10 shows the historical summary of the City’s contribution rates. Table 11 develops the experience gain/(loss) for the year ended December 31, 2012.

The rates shown in this report are based on the actuarial assumptions and cost methods described in Appendix C.



**TABLE 7**

**Derivation of Unfunded Actuarial Liability Contribution Rate**

1. Actuarial Accrued Liability	\$	571,805,455
2. Actuarial Value of Assets	\$	520,320,051
3. Unfunded Actuarial Liability (UAL)	\$	51,485,404
4. Payment (Adjusted to Mid-Year) to Amortize Unfunded Actuarial Liability/(Surplus) Over 20 Years*	\$	3,664,276
5. Total Projected Payroll for the Year	\$	72,997,067
6. Amortization Payment as a Percent of Payroll		5.0%

\* The UAL is amortized as a level percent of payroll over a rolling 20-year period.



TABLE 8

Derivation of Normal Cost Rate

Normal Cost for Year End December 31, 2012		
Service pensions	\$	6,723,006
Disability pensions		275,875
Survivor Pensions		199,103
Termination Benefits		1,441,875
Total Normal Cost	\$	8,639,859
Expected Payroll in 2013 for Current Actives		
	\$	66,721,790
Total Normal Cost Rate for Year		12.9%



TABLE 9

**Employer Contribution Rates  
for Fiscal Year Commencing in 2014**

	<b>Contribution Requirement as a % of Payroll</b>
Normal Cost	
Service pensions	10.0%
Disability pensions	0.4%
Survivor pensions	0.3%
Termination pensions	2.2%
Total Normal Cost	12.9%
Unfunded Actuarial Liability	
Retired members and beneficiaries <sup>(1)</sup>	0.0%
Active and former members <sup>(2)</sup>	5.0%
Total UAL Contribution	5.0%
Total Contribution Requirement	
Member Financed Portion <sup>(3)</sup>	4.7%
City Financed Portion	13.2%
Total	17.9%

<sup>(1)</sup> Actuarial accrued liability for retired members and beneficiaries was fully funded as of December 31, 2012.

<sup>(2)</sup> The excess of the actuarial liability over actuarial value of assets is amortized as a level percent of active member payroll over a rolling 20-year period.

<sup>(3)</sup> The weighted average of member contribution rates: 6.4% for Plan 1 and 4.7% for Plans 2 & 3.



TABLE 10

Historical Summary of City Contribution Rates

Contribution rates are computed in accordance with a level percent of payroll funding objective. As of December 31, 2012, the actuarial value of assets is less than actuarial liabilities resulting in an unfunded actuarial liability (UAL). The UAL is amortized over a rolling 20-year period.

Valuation Date	Fiscal Year	City Contributions as Percents of Active Member Pensionable Payroll	
		Funding Objective	Amortization (Credit)/Payment
11/30/1992	1994	9.5%	0.0%
11/30/1993	1995	9.5	0.0
11/30/1994	1996	9.4	0.0
12/31/1995	1997	9.0	0.0
12/31/1996	1998	6.9 - 8.4	(1.5)
12/31/1997	1999	4.6 - 8.5	(3.9)
12/31/1998	2000	0.8 - 8.3	(7.5)
12/31/1999	2001	2.5 - 9.8	(7.3)
12/31/2000	2002	0.5 - 9.7	(9.2)
12/31/2001	2003	1.9 - 9.4	(7.5)
12/31/2002	2004	2.7 - 8.8	(6.1)
12/31/2003	2005	3.1 - 8.9	(5.8)
12/31/2004	2006	3.5 - 8.2	(4.7)
12/31/2005	2007	3.9 - 8.2	(4.3)
12/31/2006	2008	4.2 - 8.3	(4.1)
12/31/2007	2009	4.2 - 8.4	(4.2)
12/31/2008	2010	8.4	0.0
12/31/2009	2011	10.2	1.7
12/31/2010	2012	10.6	2.1
12/31/2011	2013	12.6	4.1
12/31/2012	2014	13.2	5.0





TABLE 11

Derivation of System Experience Gain/(Loss)

	(\$M) Year Ended <u>12/31/2012</u>
(1) UAL* at start of year	\$ 41.9
(2) + Normal cost for year	9.0
(3) + Assumed investment return on (1) & (2)	3.6
(4) - Actual contributions (member + City)	10.9
(5) - Assumed investment return on (4)	0.4
(6) = Expected UAL at end of year	43.2
(7) + Increase (decr.) from change in actuarial software	(0.3)
(8) + Increase (decr.) from assumption changes	0.0
(9) = Expected UAL after changes	42.9
(10) = Actual UAL at year end	51.5
(11) = Experience gain/(loss) (9) - (10)	\$ (8.6)**
(12) = Percent of beginning of year AL	1.5%

\* Unfunded actuarial liability/(surplus)

\*\* Of this amount, \$8.5 million of the experience loss is due to an experience loss on the actuarial value of assets and \$0.1 million represents an experience loss on liabilities.



## SECTION VI: ACCOUNTING INFORMATION

The actuarial liability is a measure intended to help the reader assess (i) a retirement system's funded status on an on-going concern basis, and (ii) progress being made toward accumulating the assets needed to pay benefits as due. Allocation of the actuarial present value of projected benefits between past and future service was based on service using the Entry Age Normal actuarial cost method. Assumptions, including projected pay increases, were the same as used to determine the System's level percent of payroll annual required contribution between entry age and assumed exit age. Entry age was established by subtracting credited service from current age on the valuation date.

The preceding methods comply with the financial reporting standards established by the Governmental Accounting Standards Board.

The Entry Age Normal actuarial liability was determined as part of an actuarial valuation of the System as of December 31, 2012. Significant actuarial assumptions used in determining the actuarial liability include:

- (a) A rate of return on the investment of present and future assets of 7.75% per year compounded annually,
- (b) Projected salary increases of 4.00% per year compounded annually, (3.50% attributable to inflation, and 0.50% attributable to productivity),
- (c) Additional projected salary increases of 0.25% to 3.20% per year attributable to seniority/merit, and
- (d) The assumption that benefits will increase 3.00% per year of retirement, non-compounded, for Plan 1 members and 2.00% per year of retirement, non-compounded, for Plan 2 members.

### Actuarial Liability:

Active members	\$ 195,997,383
DROP members	28,457,776
Retired members and beneficiaries currently receiving benefits	323,511,259
Vested terminated members not yet receiving benefits	<u>23,839,037</u>
Total Actuarial Liability	\$ 571,805,455
Actuarial Value of Assets (market value was \$494,708,674)	\$ 520,320,051
Unfunded Actuarial Liability	\$ 51,485,404

During the year ended December 31, 2012, the System experienced a net increase of \$17 million in the actuarial liability.



TABLE 12

**Required Supplementary Information  
Schedule of Funding Progress**

Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Liability (AL) (b)	Unfunded AL (UAL) (b)-(a)	Funded Ratio (a)/(b)	Active Member Covered Payroll (c)	UAL as a Percentage of Active Member Covered Payroll [(b)-(a)]/(c)
11/30/1992	\$182,186	\$204,730	\$22,544	89.0%	\$49,552	45.5%
11/30/1993	200,853	218,603	17,750	91.9	52,093	34.1
11/30/1994	215,385	230,217	14,832	93.6	52,169	28.4
12/31/1995	238,441	242,354	3,913	98.4	54,039	7.2
12/31/1996	266,404	252,968	(13,436)	105.3	53,534	(25.1)
12/31/1997	296,705	263,573	(33,132)	112.6	54,346	(61.0)
12/31/1998	340,417	276,980	(63,437)	122.9	56,093	(113.1)
12/31/1999*	383,338	319,289	(64,049)	120.1	57,562	(111.3)
12/31/2000	414,643	329,390	(85,253)	125.9	61,112	(139.5)
12/31/2001	428,204	353,158	(75,046)	121.2	65,347	(114.8)
12/31/2002	433,366**	370,399	(62,967)	117.0	68,117	(92.4)
12/31/2003	446,794**	387,037	(59,757)	115.4	69,161	(86.4)
12/31/2004*	462,994**	413,159	(49,835)	112.1	72,154	(69.1)
12/31/2005*	479,275**	433,297	(45,978)	110.6	72,367	(63.5)
12/31/2006*	505,756**	459,062	(46,694)	110.2	75,881	(61.5)
12/31/2007*	533,911**	483,387	(50,524)	110.5	78,736	(64.2)
12/31/2008*	512,853**	512,374	(479)	100.1	81,580	(0.6)
12/31/2009*	509,494**	529,271	19,777	96.3	82,704	23.9
12/31/2010*	516,308**	540,436	24,128	95.5	79,636	30.3
12/31/2011*	513,298**	555,174	41,876	92.5	75,444	55.5
12/31/2012	520,320**	571,805	51,485	91.0	70,783	72.7

*Rounded dollar amounts are in thousands.*

*Note: Years prior to 12/31/2012 were provided by prior Actuary.*

\* After changes in benefits and/or actuarial assumptions and/or actuarial cost methods.

\*\* Includes all members except Plan 3b.

Analysis of the dollar amounts of actuarial value of assets, actuarial liability, or unfunded actuarial liability in isolation can be misleading. Expressing the actuarial value of assets as a percentage of the actuarial liability provides one indication of the System's funded status on an on-going concern basis. Analysis of this percentage over time indicates whether the System is becoming financially stronger or weaker. Generally, the greater this percentage, the stronger the System's funding. The unfunded actuarial liability and annual covered payroll are both affected by inflation. Expressing the unfunded actuarial liability as a percentage of covered payroll approximately adjusts for the effects of inflation and aids analysis of the progress being made in accumulating sufficient assets to pay benefits when due. Generally, the smaller this percentage, the stronger the System's funding.



TABLE 13

**Required Supplementary Information  
Schedule of Employer Contributions**

<b>Fiscal Year</b>	<b>Actuarial Valuation Date</b>	<b>Annual Required Contribution</b>	<b>Percent Contributed</b>
1997	12/31/1995	\$4,459,654	100%
1998	12/31/1996	4,140,163	100
1999	12/31/1997	4,134,826	100
2000	12/31/1998	2,751,084	100
2001	12/31/1999	1,843,213	100
2002	12/31/2000	3,137,912*	100
2003	12/31/2001	3,189,513*	100
2004	12/31/2002	3,266,706*	100
2005	12/31/2003	3,589,063*	100
2006	12/31/2004	3,566,429*	100
2007	12/31/2005	3,700,590*	100
2008	12/31/2006	3,834,270*	100
2009	12/31/2007	3,887,085*	100
2010	12/31/2008	6,689,450*	100
2011	12/31/2009	7,695,317*	100
2012	12/31/2010	7,503,003*	100

\* Reflects contributions to Plans 1, 2, and 3. Excludes contributions for Plan 3b members.

*Note: Years prior to 2012 were provided by prior Actuary.*

**Notes to Required Supplementary Information  
Summary of Actuarial Methods and Assumptions**

Valuation Date	December 31, 2012
Actuarial Cost Method	Entry Age Normal
Amortization Method	Level percent of payroll, open
Remaining Amortization Period	20 years
Asset Valuation Method	Expected + 25% of (Market – Expected Values)
Actuarial Assumptions:	
Investment Rate of Return*	7.75%
Projected Salary Increases*	4.25% - 7.20%
*Includes Inflation at	3.50%
Cost-of-Living Adjustments	3.00% Non-compounded (Plan 1) 2.00% Non-compounded (Plan 2)



**TABLE 14**  
**Solvency Test**

Valuation Date	Aggregate Actuarial Liability For				Portion of Actuarial Liabilities Covered by Reported Assets		
	(1) Active Member Contributions	(2) Retirants and Beneficiaries*	(3) Active Members (Employer Financed Portion)	Reported Valuation Assets	(1)	(2)	(3)
12/31/1995	\$28,549,082	\$123,759,638	\$90,046,029	\$238,441,351	100.0%	100.0%	95.7%
12/31/1996	28,996,944	133,093,326	90,877,809	266,403,759	100.0	100.0	114.8
12/31/1997	29,881,922	141,922,445	91,768,436	296,704,769	100.0	100.0	136.1
12/31/1998	29,694,389	156,764,183	90,521,375	340,417,265	100.0	100.0	170.1
12/31/1999	32,017,194	169,602,958	117,669,351	383,337,991	100.0	100.0	154.4
12/31/2000	34,189,528	177,095,907	118,104,491	414,642,694	100.0	100.0	172.2
12/31/2001	33,516,616	179,374,487	140,266,410	428,204,828	100.0	100.0	153.5
12/31/2002	38,291,472	192,615,216	139,492,410	433,365,890	100.0	100.0	145.1
12/31/2003	39,847,119	205,799,341	141,390,445	446,794,052	100.0	100.0	142.3
12/31/2004	41,852,724	218,518,676	152,632,267	462,994,047	100.0	100.0	132.8
12/31/2005	43,397,403	228,408,201	161,491,272	479,274,508	100.0	100.0	128.5
12/31/2006	45,475,389	237,860,848	175,725,905	505,755,995	100.0	100.0	126.6
12/31/2007	46,189,489	256,374,002	180,823,537	533,911,465	100.0	100.0	127.9
12/31/2008	46,541,280	272,176,420	193,655,822	512,853,345	100.0	100.0	100.2
12/31/2009	49,152,328	279,396,973	200,722,170	509,493,888	100.0	100.0	90.1
12/31/2010	50,473,365	293,227,477	196,734,871	516,307,845	100.0	100.0	87.7
12/31/2011	45,440,569	349,202,490	160,530,664	513,298,382	100.0	100.0	73.9
12/31/2012	49,519,050	347,350,296	174,936,109	520,320,051	100.0	100.0	70.6

\* Includes vested termination members.

During the twelve months ended December 31, 2012, the Wichita Employees' Retirement System generated a net actuarial loss of \$8.6 million. The amount is 1.5% of the actuarial liability at the beginning of the year.

*Note: Years prior to 12/31/2012 were provided by prior Actuary.*



**MEMBER DATA RECONCILIATION**

December 31, 2011 to December 31, 2012

The number of members included in the valuation, as summarized in the table below, is in accordance with the data submitted by the System for members of the valuation date.

	Active Participants			DROP Participants		Retirees And Beneficiaries		Terminated Vested		Total
	Plan 1	Plan 2	Plan 3	Plan 1	Plan 2	Plan 1	Plan 2	Plan 1	Plan 2	
Members as of 12/31/2011	2	901	611	29	15	836	474	1	145	3,014
New Members	0	0	+71	0	0	+17	+9	0	0	+97
Transfers	0	+67	-80	0	0	0	0	0	0	-13
Terminations										
Refunded	0	-13	-75	0	0	0	0	0	-4	-92
Deferred Vested	0	-9	0	0	0	0	0	0	+9	0
Retirements										
Service	0	-7	0	-5	-3	+5	+19	0	-9	0
Disability	0	0	0	0	0	0	0	0	0	0
DROP	0	-10	0	0	+10	0	0	0	0	0
Deaths										
Cashed Out	0	0	0	0	0	0	0	0	0	0
With Beneficiary	0	-2	0	0	0	-17	-4	0	-1	-24
Without Beneficiary	0	-1	0	0	0	-32	-5	0	0	-38
Data Adjustments	0	+2	0	0	0	0	0	0	+1	+3
<b>Members as of 12/31/2012</b>	<b>2</b>	<b>928</b>	<b>527</b>	<b>24</b>	<b>22</b>	<b>809</b>	<b>493</b>	<b>1</b>	<b>141</b>	<b>2,947</b>



## SUMMARY OF ACTIVE MEMBERS

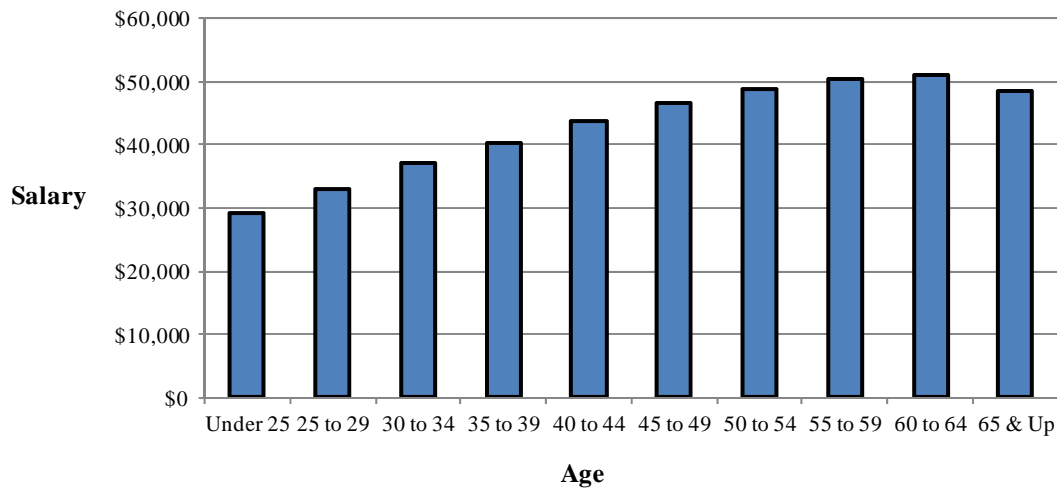
(Excluding DROP Members)

as of December 31, 2012

All Plans

Age	Number			Valuation Salaries		
	Male	Female	Total	Male	Female	Total
Under 25	12	3	15	\$ 356,537	\$ 80,414	\$ 436,951
25 to 29	49	26	75	1,651,218	816,544	2,467,762
30 to 34	83	39	122	3,130,083	1,406,383	4,536,466
35 to 39	77	61	138	2,920,227	2,652,623	5,572,850
40 to 44	88	69	157	3,934,412	2,927,275	6,861,687
45 to 49	140	79	219	6,498,236	3,669,365	10,167,601
50 to 54	167	97	264	8,286,267	4,583,371	12,869,638
55 to 59	180	111	291	9,030,925	5,651,372	14,682,297
60 to 64	89	60	149	4,732,368	2,883,327	7,615,695
65 & Up	17	10	27	910,398	396,953	1,307,351
Total	902	555	1,457	\$41,450,671	\$25,067,627	\$66,518,298

Average Salary by Age

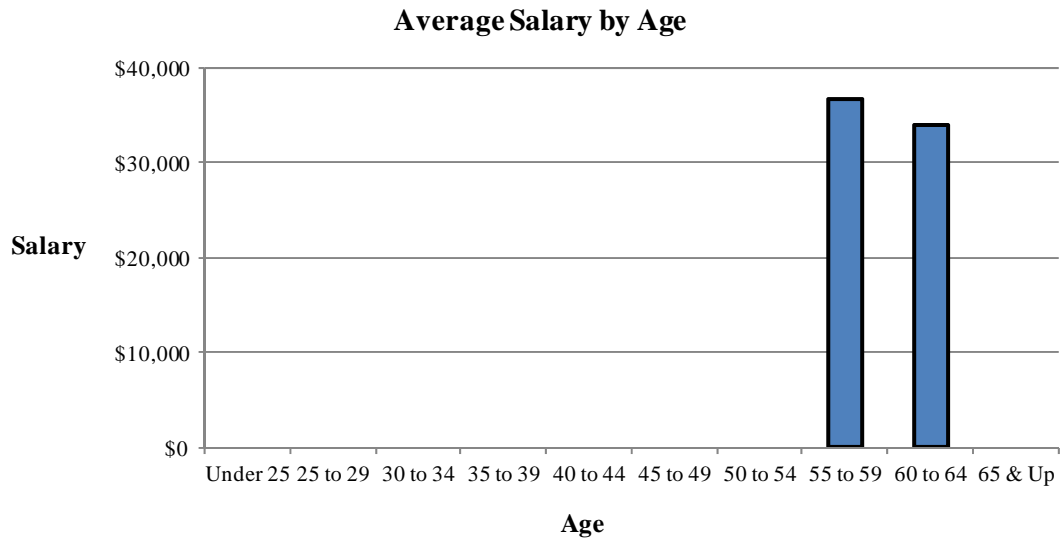




**SUMMARY OF ACTIVE MEMBERS**  
(Excluding DROP Members)  
as of December 31, 2012

Plan 1

Age	Number			Valuation Salaries		
	Male	Female	Total	Male	Female	Total
Under 25	0	0	0	\$ 0	\$ 0	\$ 0
25 to 29	0	0	0	0	0	0
30 to 34	0	0	0	0	0	0
35 to 39	0	0	0	0	0	0
40 to 44	0	0	0	0	0	0
45 to 49	0	0	0	0	0	0
50 to 54	0	0	0	0	0	0
55 to 59	1	0	1	36,780	0	36,780
60 to 64	1	0	1	34,063	0	34,063
65 & Up	0	0	0	0	0	0
Total	2	0	2	\$70,843	\$ 0	\$70,843



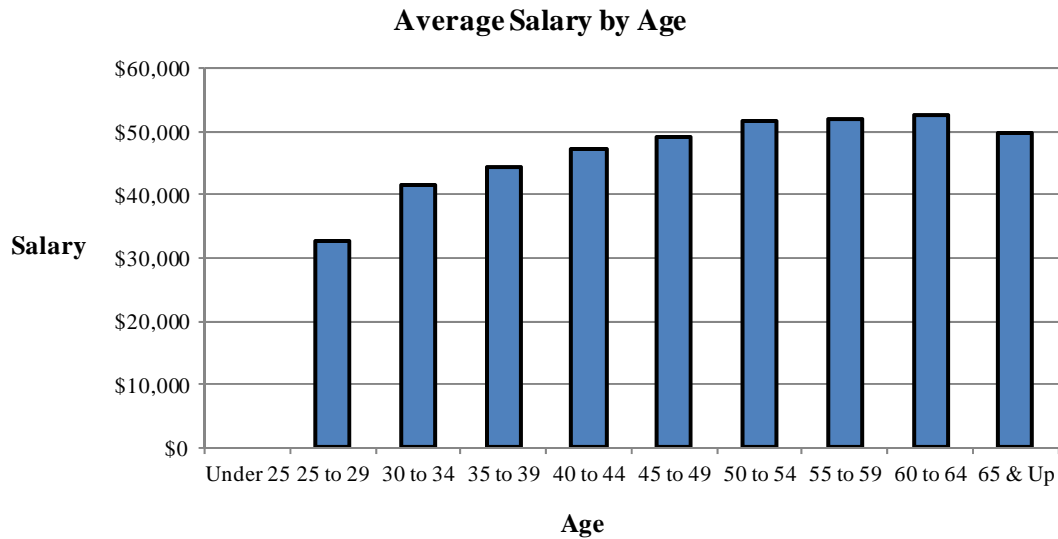




**SUMMARY OF ACTIVE MEMBERS**  
(Excluding DROP Members)  
as of December 31, 2012

Plan 2

Age	Number			Valuation Salaries		
	Male	Female	Total	Male	Female	Total
Under 25	0	0	0	\$ 0	\$ 0	\$ 0
25 to 29	4	0	4	131,264	0	131,264
30 to 34	24	7	31	982,751	308,997	1,291,748
35 to 39	33	25	58	1,360,561	1,208,967	2,569,528
40 to 44	52	40	92	2,512,074	1,835,915	4,347,989
45 to 49	108	57	165	5,307,157	2,811,181	8,118,338
50 to 54	131	67	198	6,769,367	3,483,088	10,252,455
55 to 59	146	97	243	7,470,980	5,121,619	12,592,599
60 to 64	74	47	121	4,106,251	2,247,741	6,353,992
65 & Up	10	6	16	564,432	233,726	798,158
Total	582	346	928	\$29,204,837	\$17,251,234	\$46,456,071

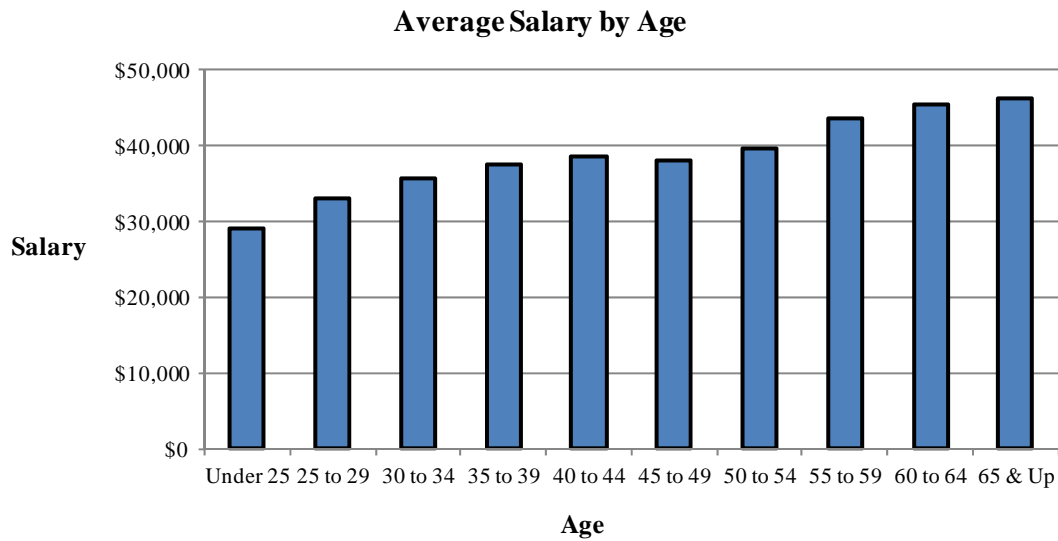




**SUMMARY OF ACTIVE MEMBERS**  
as of December 31, 2012

Plan 3

Age	Number			Valuation Salaries		
	Male	Female	Total	Male	Female	Total
Under 25	12	3	15	\$ 356,537	\$ 80,414	\$ 436,951
25 to 29	45	26	71	1,519,954	816,544	2,336,498
30 to 34	59	32	91	2,147,332	1,097,386	3,244,718
35 to 39	44	36	80	1,559,666	1,443,656	3,003,322
40 to 44	36	29	65	1,422,338	1,091,360	2,513,698
45 to 49	32	22	54	1,191,079	858,184	2,049,263
50 to 54	36	30	66	1,516,900	1,100,283	2,617,183
55 to 59	33	14	47	1,523,165	529,753	2,052,918
60 to 64	14	13	27	592,054	635,586	1,227,640
65 & Up	7	4	11	345,966	163,227	509,193
Total	318	209	527	\$12,174,991	\$7,816,393	\$19,991,384





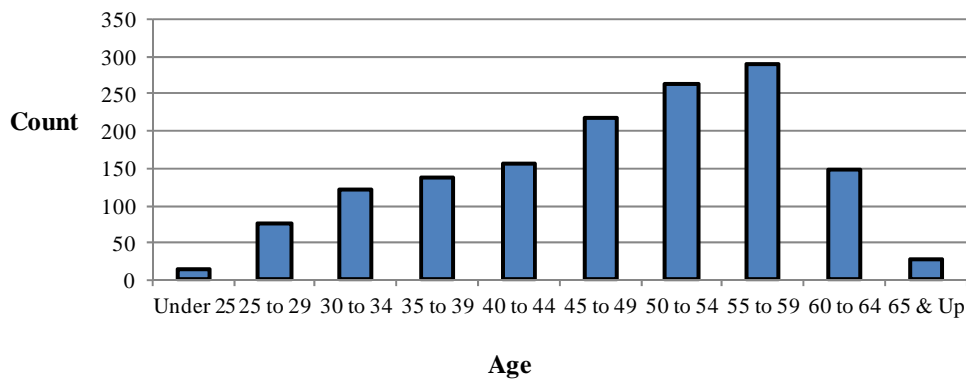
**DISTRIBUTION OF ACTIVE MEMBERS**  
(Excluding DROP Members)  
as of December 31, 2012

All Plans

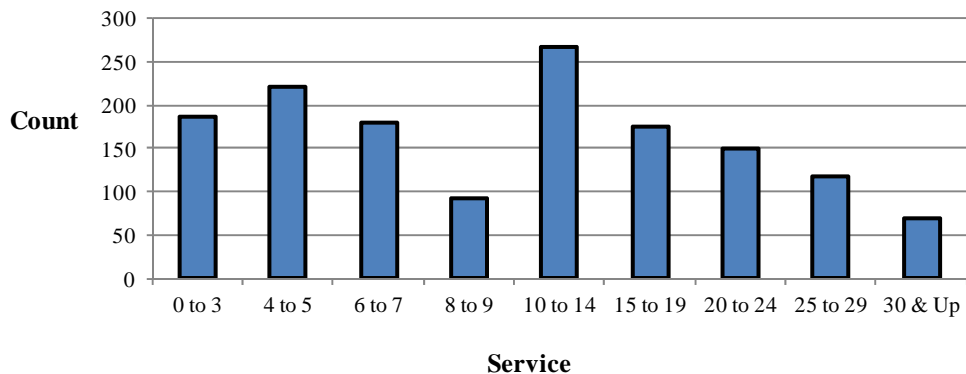
**Years of Service**

Age	0 to 3	4 to 5	6 to 7	8 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 & Up	Total
Under 25	14	1	0	0	0	0	0	0	0	15
25 to 29	33	29	11	2	0	0	0	0	0	75
30 to 34	36	39	25	8	14	0	0	0	0	122
35 to 39	25	34	26	15	28	10	0	0	0	138
40 to 44	27	25	22	9	42	24	8	0	0	157
45 to 49	14	31	19	15	46	31	43	19	1	219
50 to 54	21	22	30	19	45	39	39	34	15	264
55 to 59	11	26	19	15	51	48	42	42	37	291
60 to 64	6	8	20	8	33	20	18	21	15	149
65 & Up	0	6	7	2	7	2	1	1	1	27
Total	187	221	179	93	266	174	151	117	69	1,457

**Age Distribution**



**Service Distribution**





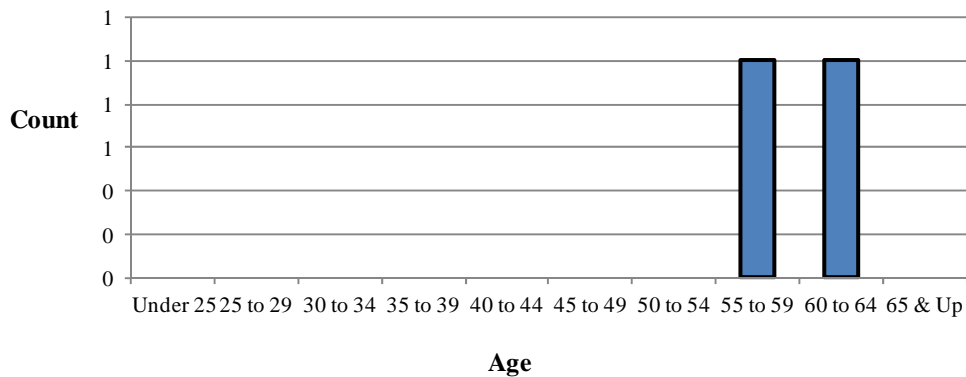
**DISTRIBUTION OF ACTIVE MEMBERS**  
(Excluding DROP Members)  
as of December 31, 2012

Plan 1

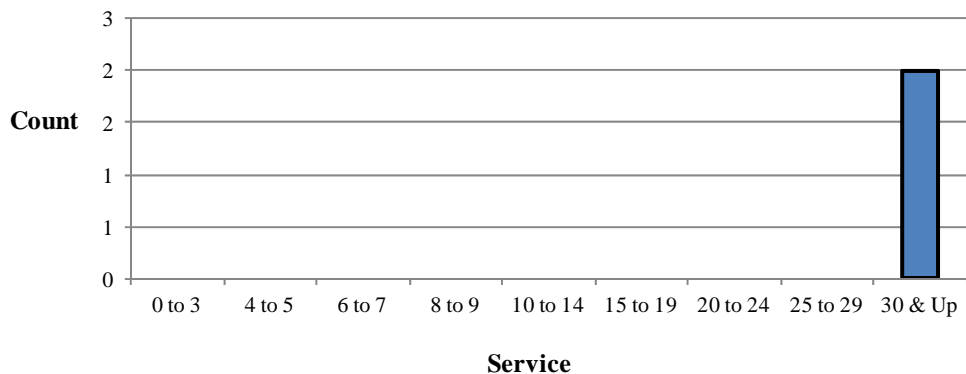
**Years of Service**

Age	0 to 3	4 to 5	6 to 7	8 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 & Up	Total
Under 25	0	0	0	0	0	0	0	0	0	0
25 to 29	0	0	0	0	0	0	0	0	0	0
30 to 34	0	0	0	0	0	0	0	0	0	0
35 to 39	0	0	0	0	0	0	0	0	0	0
40 to 44	0	0	0	0	0	0	0	0	0	0
45 to 49	0	0	0	0	0	0	0	0	0	0
50 to 54	0	0	0	0	0	0	0	0	0	0
55 to 59	0	0	0	0	0	0	0	0	1	1
60 to 64	0	0	0	0	0	0	0	0	1	1
65 & Up	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	2	2

**Age Distribution**



**Service Distribution**





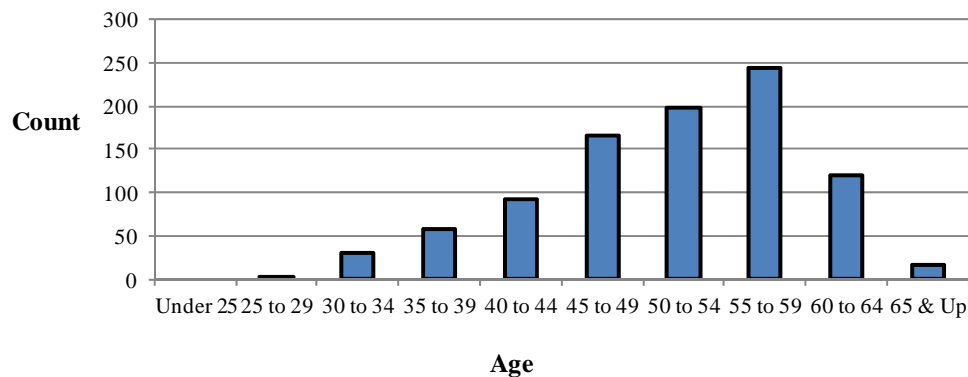
**DISTRIBUTION OF ACTIVE MEMBERS**  
(Excluding DROP Members)  
as of December 31, 2012

Plan 2

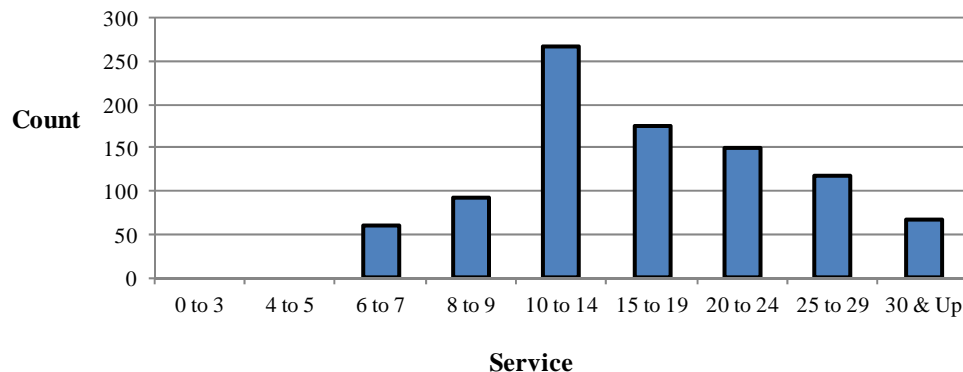
**Years of Service**

Age	0 to 3	4 to 5	6 to 7	8 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 & Up	Total
Under 25	0	0	0	0	0	0	0	0	0	0
25 to 29	0	0	2	2	0	0	0	0	0	4
30 to 34	0	0	9	8	14	0	0	0	0	31
35 to 39	0	0	5	15	28	10	0	0	0	58
40 to 44	0	0	9	9	42	24	8	0	0	92
45 to 49	0	0	10	15	46	31	43	19	1	165
50 to 54	0	0	7	19	45	39	39	34	15	198
55 to 59	0	0	9	15	51	48	42	42	36	243
60 to 64	0	0	7	8	33	20	18	21	14	121
65 & Up	0	0	2	2	7	2	1	1	1	16
Total	0	0	60	93	266	174	151	117	67	928

**Age Distribution**



**Service Distribution**





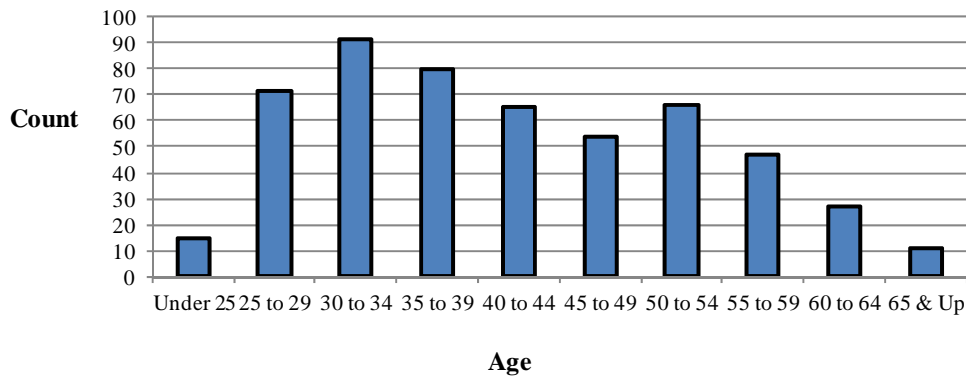
## DISTRIBUTION OF ACTIVE MEMBERS as of December 31, 2012

Plan 3

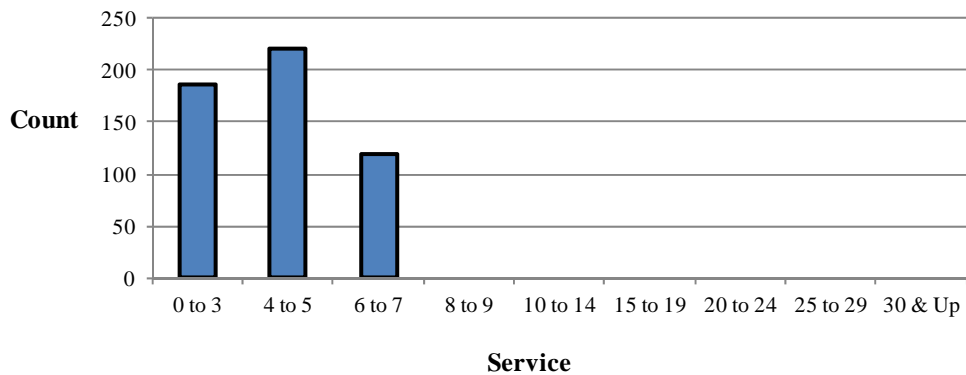
### Years of Service

Age	0 to 3	4 to 5	6 to 7	8 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 & Up	Total
Under 25	14	1	0	0	0	0	0	0	0	15
25 to 29	33	29	9	0	0	0	0	0	0	71
30 to 34	36	39	16	0	0	0	0	0	0	91
35 to 39	25	34	21	0	0	0	0	0	0	80
40 to 44	27	25	13	0	0	0	0	0	0	65
45 to 49	14	31	9	0	0	0	0	0	0	54
50 to 54	21	22	23	0	0	0	0	0	0	66
55 to 59	11	26	10	0	0	0	0	0	0	47
60 to 64	6	8	13	0	0	0	0	0	0	27
65 & Up	0	6	5	0	0	0	0	0	0	11
Total	187	221	119	0	0	0	0	0	0	527

### Age Distribution



### Service Distribution





## DISTRIBUTION OF DROP MEMBERS

as of December 31, 2012

Plan 1

Age	Service					Total
	Under 20	20 to 24	25 to 29	30 to 34	35 & Up	
Under 50	0	0	0	0	0	0
50-54	0	0	0	7	0	7
55-59	0	0	1	8	0	9
60-64	0	0	0	6	0	6
65 & Up	0	0	0	2	0	2
Total	0	0	1	23	0	24

Age	DROP Duration Elected (months)					Total
	1 to 12	13 to 24	25 to 36	37 to 48	49 to 60	
Under 50	0	0	0	0	0	0
50-54	0	0	1	0	6	7
55-59	0	0	0	0	9	9
60-64	0	0	0	0	6	6
65 & Up	0	0	0	0	2	2
Total	0	0	1	0	23	24

Age	Monthly Benefits	Current Balance
Under 50	\$ 0	\$ 0
50-54	26,194	1,267,545
55-59	30,000	1,310,533
60-64	21,688	1,257,454
65 & Up	12,851	752,744
Total	\$ 90,733	\$ 4,588,276

Covered Payroll \$1,401,926



**DISTRIBUTION OF DROP MEMBERS**  
as of December 31, 2012

Plan 2

Age	Service					Total
	Under 20	20 to 24	25 to 29	30 to 34	35 & Up	
Under 50	0	0	0	0	0	0
50-54	0	0	0	0	0	0
55-59	0	0	0	0	0	0
60-64	6	3	4	2	3	18
65 & Up	4	0	0	0	0	4
Total	10	3	4	2	3	22

Age	DROP Duration Elected (months)					Total
	1 to 12	13 to 24	25 to 36	37 to 48	49 to 60	
Under 50	0	0	0	0	0	0
50-54	0	0	0	0	0	0
55-59	0	0	0	0	0	0
60-64	0	1	6	4	7	18
65 & Up	0	2	1	1	0	4
Total	0	3	7	5	7	22

Age	Monthly Benefits	Current Balance
Under 50	\$ 0	\$ 0
50-54	0	0
55-59	0	0
60-64	48,641	728,378
65 & Up	5,768	97,041
Total	\$ 54,409	\$ 825,419

Covered Payroll \$1,273,068



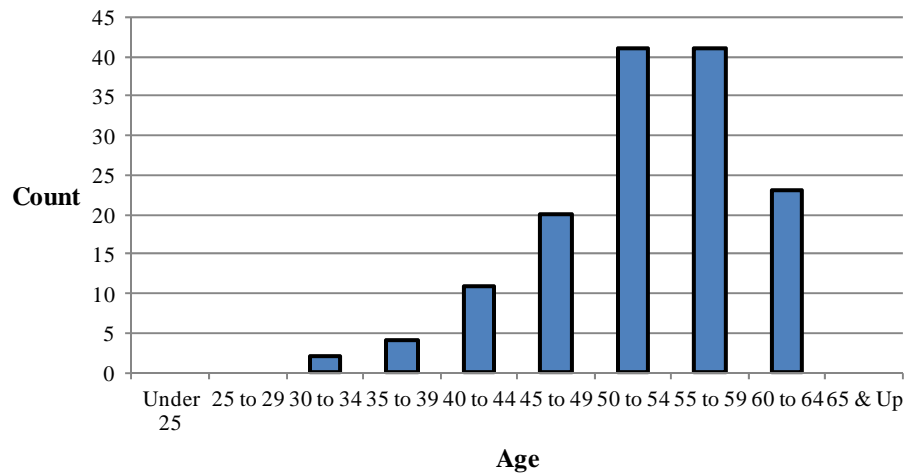


**SUMMARY OF DEFERRED VESTED MEMBERS**  
as of December 31, 2012

All Plans

Age	Number			Current Monthly Benefit at Retirement		
	Male	Female	Total	Male	Female	Total
Under 25	0	0	0	\$ 0	\$ 0	\$ 0
25 to 29	0	0	0	0	0	0
30 to 34	2	0	2	934	0	934
35 to 39	4	0	4	3,611	0	3,611
40 to 44	7	4	11	6,623	4,116	10,739
45 to 49	7	13	20	8,813	22,151	30,964
50 to 54	20	21	41	33,352	32,492	65,844
55 to 59	18	23	41	31,381	35,363	66,744
60 to 64	13	10	23	24,671	15,434	40,105
65 & Up	0	0	0	0	0	0
Total	71	71	142	\$ 109,385	\$ 109,556	\$ 218,941

Age Distribution





**SUMMARY OF DEFERRED VESTED MEMBERS**  
as of December 31, 2012

Plan 1

Age	Number			Current Monthly Benefit at Retirement		
	Male	Female	Total	Male	Female	Total
Under 25	0	0	0	\$ 0	\$ 0	\$ 0
25 to 29	0	0	0	0	0	0
30 to 34	0	0	0	0	0	0
35 to 39	0	0	0	0	0	0
40 to 44	0	0	0	0	0	0
45 to 49	0	0	0	0	0	0
50 to 54	0	0	0	0	0	0
55 to 59	1	0	1	2,038	0	2,038
60 to 64	0	0	0	0	0	0
65 & Up	0	0	0	0	0	0
Total	1	0	1	\$ 2,038	\$ 0	\$ 2,038

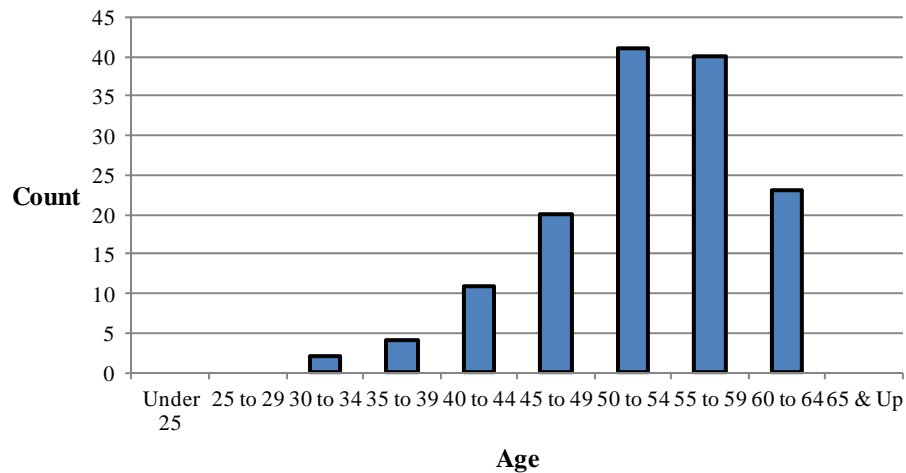


**SUMMARY OF DEFERRED VESTED MEMBERS**  
as of December 31, 2012

Plan 2

Age	Number			Current Monthly Benefit at Retirement		
	Male	Female	Total	Male	Female	Total
Under 25	0	0	0	\$ 0	\$ 0	\$ 0
25 to 29	0	0	0	0	0	0
30 to 34	2	0	2	934	0	934
35 to 39	4	0	4	3,611	0	3,611
40 to 44	7	4	11	6,623	4,116	10,739
45 to 49	7	13	20	8,813	22,151	30,964
50 to 54	20	21	41	33,352	32,492	65,844
55 to 59	17	23	40	29,343	35,363	64,706
60 to 64	13	10	23	24,671	15,434	40,105
65 & Up	0	0	0	0	0	0
Total	70	71	141	\$ 107,347	\$ 109,556	\$ 216,903

**Age Distribution**



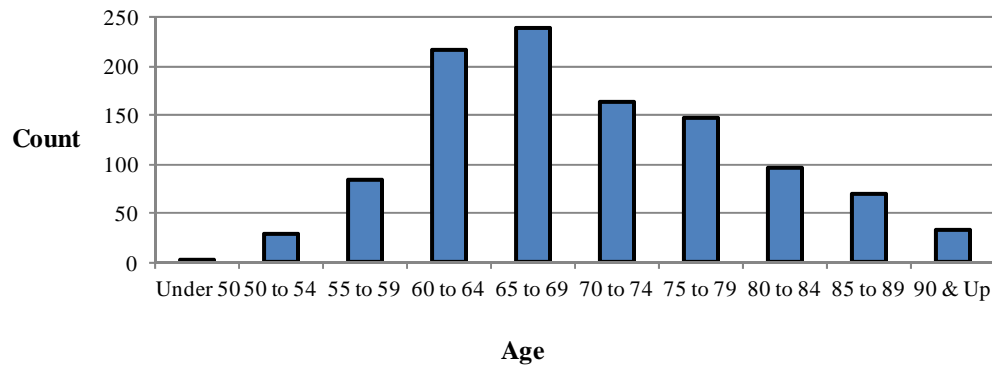


**SUMMARY OF RETIRED MEMBERS\***  
as of December 31, 2012

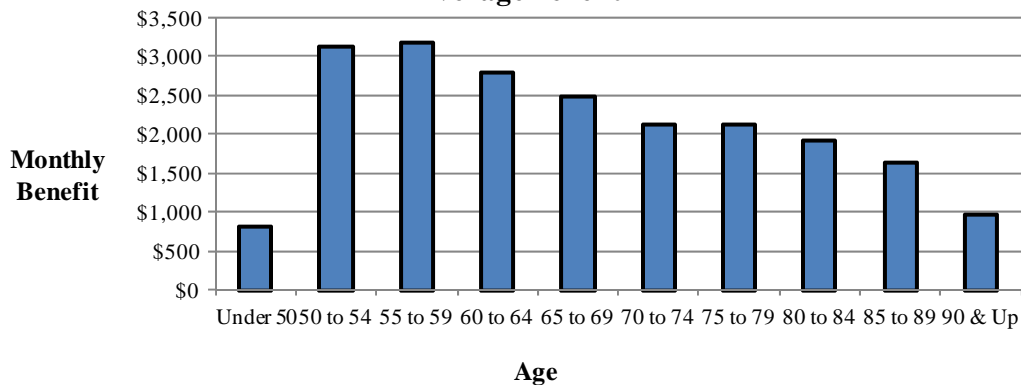
All Plans

Age	Number			Monthly Benefit		
	Male	Female	Total	Male	Female	Total
Under 50	0	1	1	\$ 0	\$ 818	\$ 818
50 to 54	20	9	29	66,982	23,983	90,965
55 to 59	51	33	84	172,440	95,039	267,479
60 to 64	152	64	216	441,595	162,276	603,871
65 to 69	137	101	238	397,192	196,371	593,563
70 to 74	100	64	164	243,633	105,955	349,588
75 to 79	82	65	147	193,386	117,075	310,461
80 to 84	55	42	97	121,374	64,732	186,106
85 to 89	34	35	69	73,430	39,984	113,414
90 & Up	6	28	34	9,818	23,038	32,856
Total	637	442	1,079	\$ 1,719,850	\$ 829,271	\$ 2,549,121

**Age Distribution**



**Average Benefit**



\*Includes DROP members

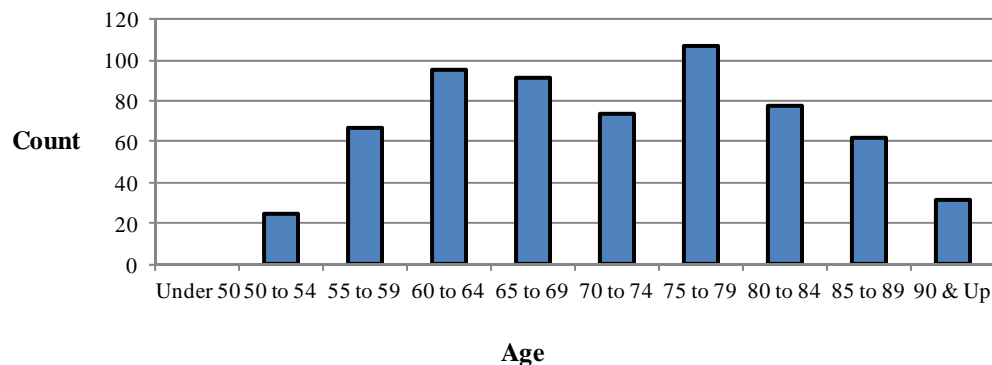


**SUMMARY OF RETIRED MEMBERS\***  
as of December 31, 2012

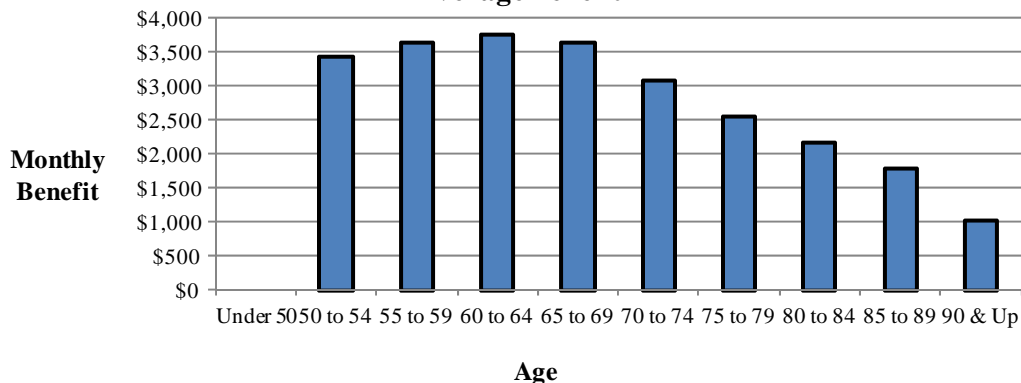
Plan 1

Age	Number			Monthly Benefit		
	Male	Female	Total	Male	Female	Total
Under 50	0	0	0	\$ 0	\$ 0	\$ 0
50 to 54	17	8	25	63,226	22,445	85,671
55 to 59	41	26	67	157,789	86,224	244,013
60 to 64	72	23	95	285,329	70,918	356,247
65 to 69	60	31	91	243,530	87,279	330,809
70 to 74	52	22	74	176,700	51,608	228,308
75 to 79	63	44	107	176,058	96,460	272,518
80 to 84	43	35	78	110,420	59,351	169,771
85 to 89	31	31	62	71,816	38,467	110,283
90 & Up	6	26	32	9,818	22,503	32,321
Total	385	246	631	\$ 1,294,686	\$ 535,255	\$ 1,829,941

**Age Distribution**



**Average Benefit**



\*Includes DROP members

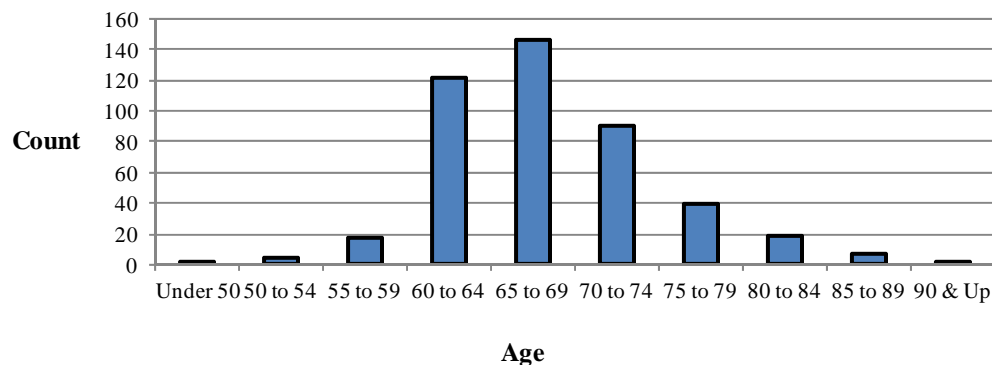


**SUMMARY OF RETIRED MEMBERS\***  
as of December 31, 2012

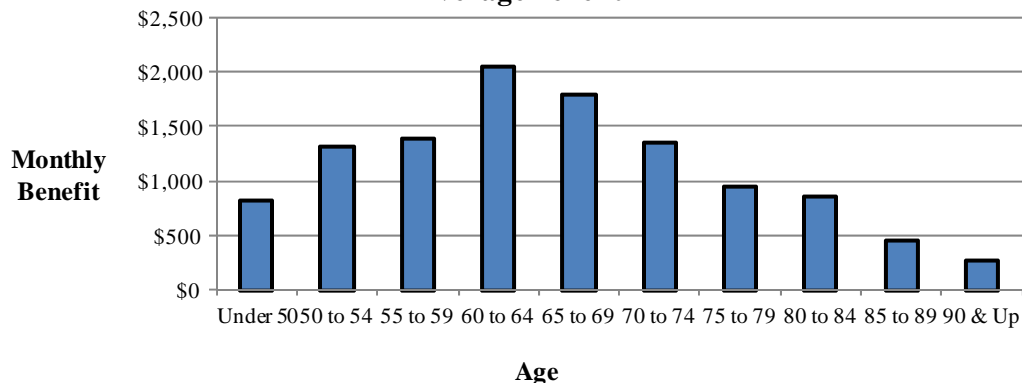
Plan 2

Age	Number			Monthly Benefit		
	Male	Female	Total	Male	Female	Total
Under 50	0	1	1	\$ 0	\$ 818	\$ 818
50 to 54	3	1	4	3,756	1,538	5,294
55 to 59	10	7	17	14,651	8,815	23,466
60 to 64	80	41	121	156,266	91,358	247,624
65 to 69	77	70	147	153,662	109,092	262,754
70 to 74	48	42	90	66,933	54,347	121,280
75 to 79	19	21	40	17,328	20,615	37,943
80 to 84	12	7	19	10,954	5,381	16,335
85 to 89	3	4	7	1,614	1,517	3,131
90 & Up	0	2	2	0	535	535
Total	252	196	448	\$ 425,164	\$ 294,016	\$ 719,180

**Age Distribution**



**Average Benefit**



\*Includes DROP members



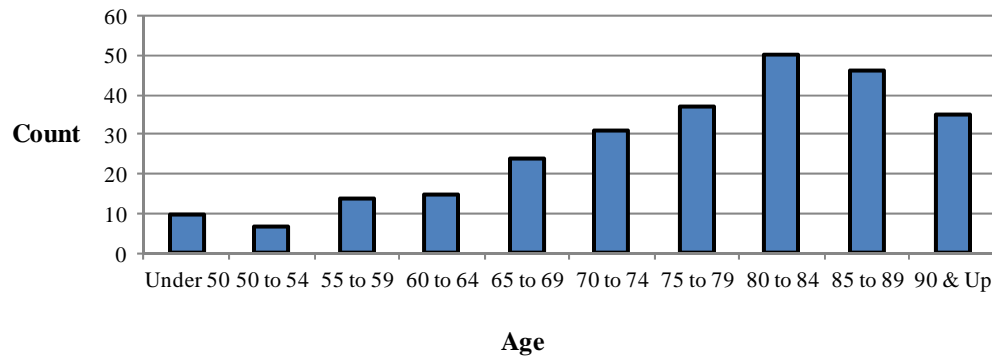
## SUMMARY OF BENEFICIARIES

as of December 31, 2012

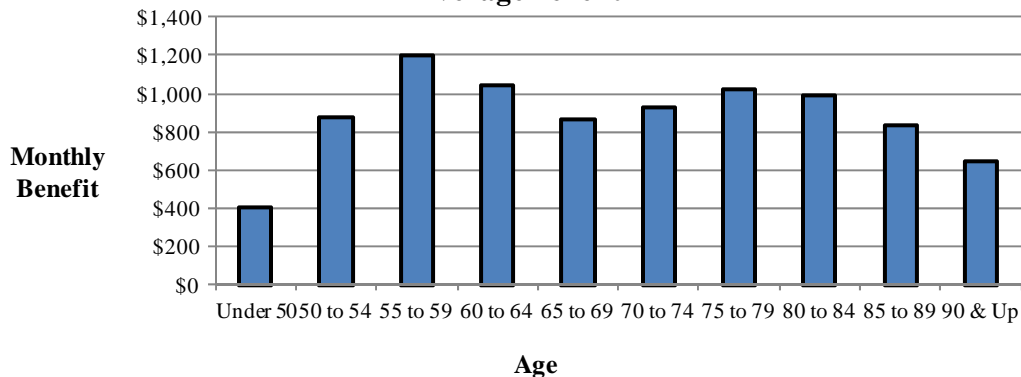
All Plans

Age	Number			Monthly Benefit		
	Male	Female	Total	Male	Female	Total
Under 50	3	7	10	\$ 1,239	\$ 2,842	\$ 4,081
50 to 54	3	4	7	3,497	2,627	6,124
55 to 59	0	14	14	0	16,824	16,824
60 to 64	1	14	15	711	14,929	15,640
65 to 69	3	21	24	2,078	18,688	20,766
70 to 74	4	27	31	1,667	27,177	28,844
75 to 79	3	34	37	2,250	35,363	37,613
80 to 84	10	40	50	6,580	43,079	49,659
85 to 89	6	40	46	3,294	35,006	38,300
90 & Up	2	33	35	872	21,517	22,389
Total	35	234	269	\$ 22,188	\$ 218,052	\$ 240,240

Age Distribution



Average Benefit





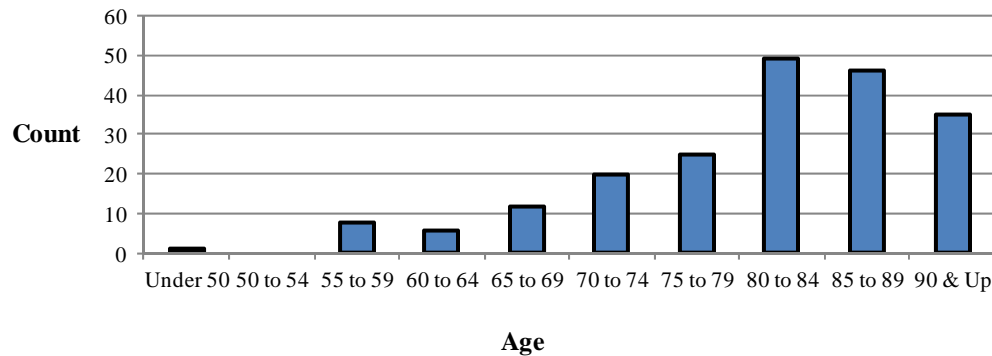
## SUMMARY OF BENEFICIARIES

as of December 31, 2012

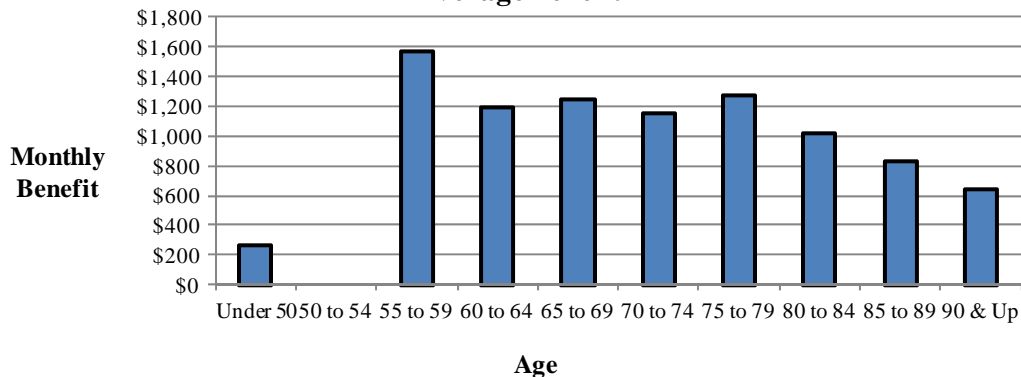
Plan 1

Age	Number			Monthly Benefit		
	Male	Female	Total	Male	Female	Total
Under 50	0	1	1	\$ 0	\$ 259	\$ 259
50 to 54	0	0	0	0	0	0
55 to 59	0	8	8	0	12,590	12,590
60 to 64	1	5	6	711	6,410	7,121
65 to 69	2	10	12	1,451	13,493	14,944
70 to 74	2	18	20	1,179	21,953	23,132
75 to 79	1	24	25	1,321	30,416	31,737
80 to 84	10	39	49	6,580	43,016	49,596
85 to 89	6	40	46	3,294	35,006	38,300
90 & Up	2	33	35	872	21,517	22,389
Total	24	178	202	\$ 15,408	\$ 184,660	\$ 200,068

Age Distribution



Average Benefit





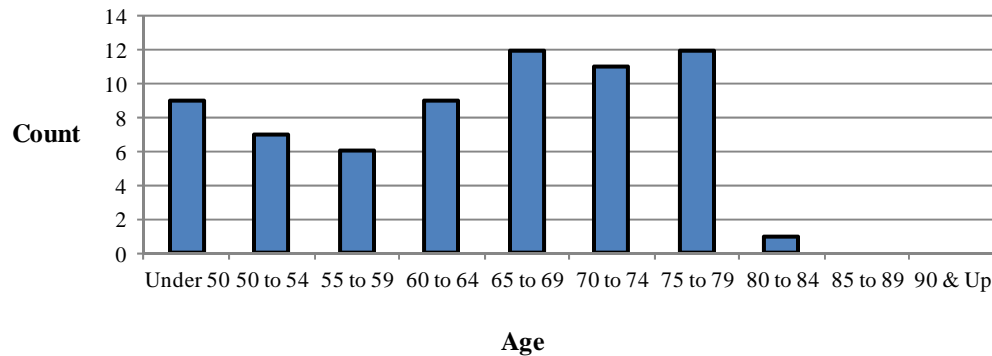


## SUMMARY OF BENEFICIARIES as of December 31, 2012

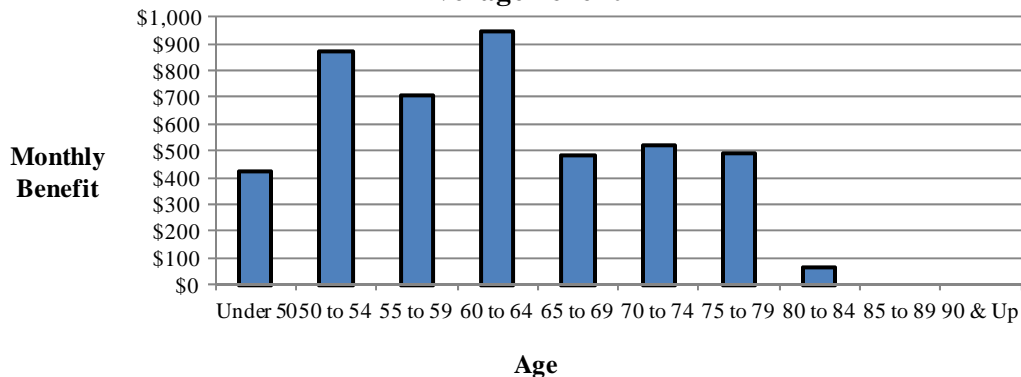
Plan 2

Age	Number			Monthly Benefit		
	Male	Female	Total	Male	Female	Total
Under 50	3	6	9	\$ 1,239	\$ 2,583	\$ 3,822
50 to 54	3	4	7	3,497	2,627	6,124
55 to 59	0	6	6	0	4,234	4,234
60 to 64	0	9	9	0	8,519	8,519
65 to 69	1	11	12	627	5,195	5,822
70 to 74	2	9	11	488	5,224	5,712
75 to 79	2	10	12	929	4,947	5,876
80 to 84	0	1	1	0	63	63
85 to 89	0	0	0	0	0	0
90 & Up	0	0	0	0	0	0
Total	11	56	67	\$ 6,780	\$ 33,392	\$ 40,172

Age Distribution



Average Benefit





## **Summary of Benefit Provisions**

### **Defined Benefit Plans 1 and 2**

**Plan 1** is applicable to members employed prior to July 18, 1981 who have not elected to be covered by Plan 2.

**Plan 2** is applicable to members employed or re-employed on or after July 18, 1981 and before January 1, 1994 and to other employees who have elected Plan 2 coverage.

**Plan 3** is applicable to members employed on or after January 1, 1994 who have not become covered by Plan 2. Plan 3 members are automatically transferred to Plan 2 after they have 7 years of service unless they file an irrevocable election to remain in Plan 3.

#### **NORMAL RETIREMENT (NO REDUCTION FACTOR)**

**Eligibility – Plan 1:** Age 60 with 7 or more years of service, or any age with 30 or more years of service.

**Eligibility – Plan 2:** Age 62 with 7 or more years of service (effective August 1, 1990).

**Amount of Pension – Plan 1:** Service times 2.5% of Final Average Salary to a maximum of 75% of Final Average Salary.

**Amount of Pension – Plan 2:** Service times 2.25% of Final Average Salary to a maximum of 75% of Final Average Salary (effective January 1, 2000).

**Final Average Salary – all plans:** Average for the 3 consecutive years of service which produce the highest average and which are within the last 10 years of service.

#### **EARLY RETIREMENT (WITH REDUCTION FACTOR)**

**Eligibility – all plans:** Age 55 with 7 or more years of service.

**Amount of Pension – Plan 1:** Computed as for normal retirement, but reduced for each month retirement precedes age 60. The reduction is 0.05 of 1% if service is 29 years but less than 30 years, increasing by 0.05 of 1% for each additional year of service less than 30 years, to a maximum of 0.50 of 1% if service is less than 21 years.

**Amount of Pension – Plan 2:** Computed as for normal retirement, but reduced for each month retirement precedes age 62. The reduction is 0.6% per month for every year of age less than 62 with a maximum reduction of 50.4% at age 55.



## **APPENDIX B: SUMMARY OF BENEFIT PROVISIONS**

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### **DEFERRED RETIREMENT (VESTED TERMINATION)**

**Eligibility – all plans:** 7 or more years of service. A terminated employee may apply for a reduced pension upon meeting the applicable age requirement for early retirement or an unreduced pension upon meeting the applicable age requirement for normal retirement. A terminated employee may elect a refund of employee contributions, plus applicable interest, in lieu of a deferred retirement benefit.

**Amount of Pension – all plans:** An amount computed as for normal retirement. Vested deferred pensions are adjusted during the deferral period based on changes in National Average Earnings, up to 5.5% annual adjustments.

### **DEFERRED RETIREMENT OPTION PLAN (DROP)**

**Eligibility – all plans:** Member must be eligible to retire under early reduced or normal age and/or service requirements and elect to participate in DROP for up to 5 years.

**Amount of Benefit – all plans:** Benefit computed based on years of service, Final Average Salary as of the DROP election date, and length of DROP period. Benefit is paid into member's notional DROP account during the deferral period. Member continues to make required employee contributions during the deferral period. Interest at an annual rate of 5%, compounded monthly, is credited to the notional DROP account. Voluntary termination of employment during the DROP period results in loss of accrued interest. Balance of DROP account is payable within 90 days of actual termination of employment.

### **SERVICE-CONNECTED DISABILITY**

**Eligibility – all plans:** No age or service requirement. Requires total and permanent disability, as defined in State worker's compensation act, for employment by the City in a position commensurate with the employee's training, experience and education.

**Amount of Pension – Plan 1:** 60% of final rate of Salary.

**Amount of Pension – Plan 2:** 50% of final rate of Salary.

### **NON-SERVICE DISABILITY**

**Eligibility – all plans:** 7 or more years of service. Requires total and permanent disability for employment by the City in a position commensurate with the employee's training, experience and education.

**Amount of Pension – Plan 1:** 30% of Final Average Salary plus 1% of Final Average Salary times service over 7 years; maximum is 50% of Final Average Salary.

**Amount of Pension – Plan 2:** 25% of final rate of Salary.



## **APPENDIX B: SUMMARY OF BENEFIT PROVISIONS**

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### **POST-RETIREMENT SURVIVOR BENEFITS**

**Eligibility – all plans Surviving Spouse:** Must have been married to retired employee for one year or more, at time of death if retired after January 1, 2000. If retired prior to January 1, 2000, must have been married to retired employee at retirement.

**Eligibility – all plans Minor Children:** Must be less than 18 years old.

**Amount of Pension – all plans Surviving Spouse:** 50% of amount that was being paid to retiree.

**Amount of Pension – all plans Minor Child with Surviving Spouse:** 10% of the member's Final Average Salary for each child under age 18. Maximum, including surviving spouse benefit, is 75% of Final Average Salary.

**Amount of Pension – all plans Minor Child without Surviving Spouse:** 20% of the member's Final Average Salary for each child under age 18. Maximum benefit is 60% of Final Average Salary.

### **POST-RETIREMENT FUNERAL BENEFITS**

**Eligibility – Designated Beneficiary:** Must have been designated by the retired employee.

**Amount of Benefit – Plan 1:** \$1,500

**Amount of Benefit – Plan 2:** None

### **PRE-RETIREMENT SURVIVOR BENEFITS**

**Eligibility – Surviving Spouse:** Death of employee with 7 or more years of service.

**Eligibility – Designated Beneficiary:** The beneficiary designated by an unmarried member or by a member who fails to meet the 7 year service requirement for the surviving spouse benefit.

**Amount of Pension – Surviving Spouse:** 50% of amount that that the deceased employee would have been entitled to had he/she been on an unreduced retirement at time of death.

**Amount of Pension –Designated Beneficiary:** The deceased employee's contributions, plus applicable interest, plus one month's Salary for each full year of service up to a maximum of 6 years.

### **OTHER TERMINATION BENEFITS**

**Eligibility – all plans:** Termination of employment without eligibility for any other benefit.

**Amount of Benefit – all plans:** Accumulated employee contributions with interest at 5% per year compounded monthly are refunded.



## **APPENDIX B: SUMMARY OF BENEFIT PROVISIONS**

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### **POST-RETIREMENT ADJUSTMENTS OF PENSIONS**

**Eligibility – Plan 1:** Completion of 12 months of retirement.

**Eligibility – Plan 2:** If retired on or after January 1, 2000, completion of 12 months of retirement. If retired before January 1, 2000, there is no adjustment (effective February 19, 2000).

**Annual Amount – Plan 1:** 3% of the base amount of benefit (simple COLA).

**Annual Amount – Plan 2:** 2% of the base amount of benefit (simple COLA).

### **EMPLOYEE CONTRIBUTIONS**

Plan 1: 6.4% of total compensation

Plan 2: 4.7% of base salary and longevity pay (effective February 19, 2000)

Plan 3: 4.7% of compensation (effective February 19, 2000)

### **CITY CONTRIBUTIONS**

Actuarially determined amount which together with employee contributions and investment earnings will fund the obligations of the System in accordance with accepted actuarial principles

Plan 3: 4.7% of compensation, less forfeitures from non-vested terminations (effective February 19, 2000).

### **UNUSED SICK LEAVE**

Each bi-weekly service credit of accumulated unused sick leave is converted to a service credit for the purpose of computing annual benefit amounts.

### **VESTING OF CONTRIBUTIONS**

**Plan 3:** Member contributions and investment earnings thereon are 100% vested. City contributions and investment earnings thereon are 25% vested after 3 years of service, 50% vested after 5 years of service, and 100% vested after 7 years of service.

### **DISTRIBUTION OF VESTED ACCOUNTS**

**Plan 3:** Vested accounts are payable upon termination of City employment or death. Available forms of payment are prescribed by the Board.

### **DISABILITY RETIREMENT**

**Plan 3:** Service and non-service connected disability benefits are the same as those of Plan 2. Plan 3 members may alternatively elect to receive a refund of their Plan 3 vested account.



## **APPENDIX C: ACTUARIAL COST METHOD AND ASSUMPTIONS**

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### **ACTUARIAL COST METHOD**

The actuarial cost method is a procedure for allocating the actuarial present value of pension benefits and expenses to time periods. The method used for the valuation is known as the Entry Age Normal actuarial cost method, and have the following characteristics:

- (i) The annual normal costs for each individual active member are sufficient to accumulate the value of the member's pension at time of retirement.
- (ii) Each annual normal cost is a constant percentage of the member's year-by-year projected covered compensation.

The Entry Age Normal actuarial cost method allocates the actuarial present value of each member's projected benefits on a level basis over the member's assumed pensionable compensation rates between the entry age of the member and the assumed exit ages.

The portion of the actuarial present value allocated to the valuation year is called the normal cost. The portion of the actuarial present value not provided for by the actuarial present value of future normal costs is called actuarial liability. Deducting actuarial assets from the actuarial liability determines the unfunded actuarial liability or (surplus). The unfunded actuarial liability/(surplus) is financed as a level percent of member payroll over an open 20-year period.

### **ACTUARIAL ASSUMPTIONS**

Retirement System contribution requirements and actuarial present values are calculated by applying experience assumptions to the benefit provisions and membership information of the Retirement System, using the actuarial cost method.

The principal areas of risk which require experience assumptions about future activities of the Retirement System are:

- (i) Long-term rates of investment return to be generated by the assets of the System
- (ii) Patterns of pay increases to members
- (iii) Rates of mortality among members, retirees and beneficiaries
- (iv) Rates of withdrawal of active members
- (v) Rates of disability among active members
- (vi) The age patterns of actual retirements



## APPENDIX C: ACTUARIAL COST METHOD AND ASSUMPTIONS

In making a valuation, the monetary effect of each assumption is calculated for as long as a present covered person survives – a period of time which can be as long as a century.

Actual experience of the Retirement System will not coincide exactly with assumed experience. Each valuation provides a complete recalculation of assumed future experience and takes into account all past differences between assumed and actual experiences. The result is a continual series of adjustments (usually small) to the computed contribution rate.

From time to time, one or more of the assumptions are modified to reflect experience trends (but not random or temporary year-to-year fluctuations). A complete review of the actuarial assumptions was completed in 2009. The use of updated assumptions was effective with the December 31, 2009 valuation.

**Investment Rate of Return** (net of administrative expenses): This assumption is 7.75% a year, compounded annually and consists of 3.5% long-term price inflation and a 4.25% real rate of return over price inflation. This assumption, used to equate the value of payments due at different points in time, was adopted by the Board and was first used for the December 31, 1981 valuation, although the allocation between inflation and real return has changed periodically, most recently in 2009.

**Salary Increase Rates:** These rates are used to project current pay amounts to those upon which a benefit will be based. This table was first used in the December 31, 2009 valuation.

Years of Service	Annual Rate of Salary Increase for Sample Service Durations			
	Inflation Component	Productivity Component	Merit and Longevity	Total
1	3.50%	0.50%	3.20%	7.20%
2	3.50	0.50	3.00	7.00
3	3.50	0.50	2.80	6.80
4	3.50	0.50	2.60	6.60
5	3.50	0.50	2.40	6.40
6	3.50	0.50	2.20	6.20
7	3.50	0.50	2.00	6.00
8	3.50	0.50	1.80	5.80
9	3.50	0.50	1.70	5.70
10	3.50	0.50	1.60	5.60
11	3.50	0.50	1.50	5.50
12	3.50	0.50	1.40	5.40
13	3.50	0.50	1.30	5.30
14	3.50	0.50	1.20	5.20
15	3.50	0.50	1.06	5.06
16	3.50	0.50	0.92	4.92
17	3.50	0.50	0.78	4.78
18	3.50	0.50	0.65	4.65
19	3.50	0.50	0.50	4.50
20	3.50	0.50	0.50	4.50
21	3.50	0.50	0.50	4.50
22	3.50	0.50	0.50	4.50
23	3.50	0.50	0.50	4.50
24	3.50	0.50	0.50	4.50
25	3.50	0.50	0.50	4.50
Over 25	3.50	0.50	0.25	4.25



## APPENDIX C: ACTUARIAL COST METHOD AND ASSUMPTIONS

The salary increase assumptions will produce 4.0% annual increases in active member payroll (the inflation and productivity base rate) given a constant active member group size. This is the same payroll growth assumption used to amortize the unfunded actuarial liability. The real rate of return over assumed wage growth is 3.75% per year.

Changes actually experienced in average pay and total payroll have been as follows:

	Year Ended					5 Year (Average) Compounded Annual Increase
	12/31/12	12/31/11	12/31/10	12/31/09	12/31/08	
Average Payroll	3.2%	(1.1)%	1.1%	5.5%	2.2%	2.8%
Total Payroll	2.3%	(10.0)%	(4.3)%	0.8%	3.1%	(1.7)%

**Mortality Table:** This assumption is used to measure the probabilities of members dying and the probabilities of each pension payment being made after retirement.

Healthy Retirees

And Beneficiaries: RP-2000 Healthy Annuitant Table (ages set forward 2 years for males, 0 for females)

Disabled Retirees: RP-2000 Disabled Table for Males and Females

Active Members: RP-2000 Employee Table (ages set forward 2 years for males, 0 for females)

The RP-2000 Tables are used with generational mortality.

Sample Ages <sup>(1)</sup>	Present Value of \$1 Monthly for Life		Future Life Expectancy (Years)	
	Men	Women	Men	Women
50	\$136.27	\$141.98	30.4	34.6
55	128.67	135.41	25.7	29.7
60	118.41	127.04	21.2	25.1
65	150.86	116.91	16.9	20.7
70	91.20	104.80	13.0	16.7
75	75.12	90.90	9.7	13.0
80	58.98	75.76	6.9	9.8
85	44.42	60.20	4.8	7.1

(1) Ages in 2000

This table was first used for the December 31, 2004 actuarial valuation.





## APPENDIX C: ACTUARIAL COST METHOD AND ASSUMPTIONS

**Rates of Retirement and Deferred Retirement Option Plan (DROP) Elections:** These rates are used to measure the probability of eligible members retiring under either the regular retirement provisions or from the Deferred Retirement Option Plan.

**Percent Retiring During Year**

Retirement Age	Plan 1	Plan 2
55	15%	5%
56	15	5
57	15	5
58	15	5
59	15	5
60	40	5
61	40	5
62	20	30
63	20	30
64	20	40
65	100	40
66	N/A	30
67	N/A	30
68	N/A	30
69	N/A	30
70	N/A	100

In addition, the following assumptions would apply to members in this category:

**Plan 1:** 70% of members with 30 or more years of service will elect the DROP with an average DROP period of 48 months. The remaining 30% are assumed to retire immediately.

**Plan 2:** 70% of members with 33.33 or more years of service and are at least age 62 will elect the DROP with an average DROP period of 36 months.

All members of the retirement system were assumed to retire on or before age 70.

This assumption was first used in the December 31, 2009 actuarial valuation.



## APPENDIX C: ACTUARIAL COST METHOD AND ASSUMPTIONS

**Rates of Separation from Active Membership:** This assumption measures the probabilities of a member terminating employment. The rates do not apply to members who are eligible to retire.

Sample Ages	Years of Service	Probability of Terminating During Year
ALL	0	25.00%
	1	19.00
	2	14.00
	3	11.00
	4	9.00
25	Over 4	9.00
30		7.00
35		5.25
40		4.00
45		3.50
50		2.50
55		1.50
60		1.50

These rates were first used for the December 31, 2009 valuation.

**Forfeiture of Vested Benefits:** The assumption is that a percentage of the actuarial present value of vested termination benefits will be forfeited by a withdrawal of accumulated contributions.

Years of Service	Percent Forfeiting
Under 15	60%
15-19	40
20-24	20
25 or more	0

This table was first used for the December 31, 2004 actuarial valuation.

**Rates of Disability:** This assumption measures the probabilities of a member becoming disabled.

Sample Ages	% of Active Members Becoming Disabled During Next Year
25	0.02%
30	0.03
35	0.04
40	0.07
45	0.10
50	0.18
55	0.32
60	0.53

These rates were first used for the December 31, 2009 valuation.  
Disabilities are assumed to be non-duty related.



## **APPENDIX C: ACTUARIAL COST METHOD AND ASSUMPTIONS**

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**Administrative Expenses:** Assumed to be paid from investment earnings.

**Active Member Group Size:** Assumed to remain constant.

**Vested Deferred Pensions:** Amounts are assumed to increase during the deferral period at 4.0% per year. This assumption was first used for the December 31, 2009 valuation.

### **MISCELLANEOUS AND TECHNICAL ASSUMPTIONS**

**Marriage Assumption:** 70% of non retired participants are assumed to be married for purposes of death benefits. In each case, the male was assumed to be 3 years older than the female.

**Pay Increase Timing:** Assumed to be mid-year.

**Decrement Timing:** Decrements of all types are assumed to occur mid-year.

**Eligibility Testing:** Eligibility for benefits is determined based upon the age nearest birthday and service nearest whole year at the start of the year in which the decrement is assumed to occur.

**Benefit Service:** Service calculated to the nearest month, as of the decrement date, is used to determine the amount of benefit payable.

**Other:** The turnover decrement does not operate during retirement eligibility.

**Miscellaneous Loading Factors:** The calculated normal retirement benefits were increased by 4% to account for the inclusion of unused sick leave in the calculation of Service. This assumption was changed with the December 31, 2004 valuation.

**Plan 3 Transfer Assumption:** For purposes of the valuation, Plan 3 members are assumed to transfer to Plan 2 if they acquire 7 years of service. An additional reserve is held for the difference between the market and actuarial value of assets. This assumption was changed with the December 31, 2004 valuation.



## **APPENDIX D: GLOSSARY OF TERMS**

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<b>Actuarial Liability</b>	The difference between the actuarial present value of system benefits and the actuarial present value of future normal costs. Also referred to as “accrued liability” or “actuarial liability”
<b>Actuarial Assumptions</b>	Estimates of future experience with respect to rates of mortality, disability, turnover, retirement, rate or rates of investment income and salary increases. Decrement assumptions (rates of mortality, disability, turnover and retirement) are generally based on past experience, often modified for projected changes in conditions. Economic assumptions (salary increases and investment income) consist of an underlying rate in an inflation-free environment plus a provision for a long-term average rate of inflation.
<b>Accrued Service</b>	Service credited under the system which was rendered before the date of the actuarial valuation.
<b>Actuarial Equivalent</b>	A single amount or series of amounts of equal actuarial value to another single amount or series of amounts, computed on the basis of appropriate assumptions.
<b>Actuarial Cost Method</b>	A mathematical budgeting procedure for allocating the dollar amount of the actuarial present value of retirement system benefit between future normal cost and actuarial liability; sometimes referred to as the “actuarial funding method”.
<b>Experience Gain (Loss)</b>	The difference between actual experience and actuarial assumptions anticipated experience during the period between two actuarial valuation dates.
<b>Actuarial Present Value</b>	The amount of funds currently required to provide a payment or series of payments in the future. It is determined by discounting future payments at predetermined rates of interest and by probabilities of payment.
<b>Amortization</b>	Paying off an interest-discounted amount with periodic payments of interest and principal, as opposed to paying off with lump sum payment.
<b>Normal Cost</b>	The actuarial present value of retirement system benefits allocated to the current year by the actuarial cost method.
<b>Unfunded Actuarial Liability</b>	<p>The difference between actuarial liability and the valuation assets.</p> <p>Most retirement systems have unfunded actuarial liability. They arise each time new benefits are added and each time an actuarial loss is realized.</p> <p>The existence of unfunded actuarial liability is not in itself bad, anymore than a mortgage on a house is bad. Unfunded actuarial liability does not represent a debt that is payable today. What is important is the ability to amortize the unfunded actuarial liability and the trend in its amount.</p>

**Agenda Item No. IV-10**

**City of Wichita  
City Council Meeting  
April 16, 2013**

**TO:** Mayor and City Council

**SUBJECT:** USD 259 McKinney-Vento Summer Activity Camp Agreement (Districts I, III, and VI)

**INITIATED BY:** Department of Park and Recreation

**AGENDA:** New Business

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**Recommendation:** Approve the agreement.

**Background:** For over 20 years, the City of Wichita has provided the Summer Activity Camp Program for children ages 6-14 through efforts by a variety of departments. This successful program offers various recreation programs for children in underserved and low-income areas of Wichita. The program is currently provided at Colvin, Evergreen and Lynnette Woodard/Atwater Recreation Centers.

**Analysis:** In the Fall of 2012, the Wichita Park and Recreation Department was approached by USD 259 to provide instructional enrichment recreation programs through funding provided by the 21<sup>st</sup> Century Learning Grant that USD 259 received. USD 259 has developed a proposed agreement with the City of Wichita Park and Recreation Department to provide a summer activity camp recreation program to serve students who have been identified as homeless through the McKinney-Vento Program. The Summer Activity Camp will take place at the Colvin, Evergreen, and Lynnette Woodard/Atwater Recreation Centers from May 28 - July 19, 2013. The camp will provide summer academic enrichment and recreational activities to over 200 children and youth ages 6-14 years old who are in the McKinney-Vento program and area neighborhood at-risk students. The USD 259 School Board approved this agreement at their April 8, 2013 meeting.

**Financial Consideration:** The agreement will pay for existing staff, equipment, supplies, transportation and other related enrichment activities for the Summer Activity Camps. The agreement will not exceed \$63,600. All expenditures made by the City of Wichita are 100% reimbursable for these programs.

**Legal Consideration:** The agreement has been reviewed by the Law Department and is approved as to form.

**Recommendation/Actions:** It is recommended that the City Council approve the agreement with USD 259 and authorize the necessary signatures.

**Attachment:** Agreement.

## AGREEMENT

Between

THE CITY OF WICHITA, KANSAS  
DEPARTMENT OF PARK AND RECREATION

and

UNIFIED SCHOOL DISTRICT NO. 259,  
COUNTY OF SEDGWICK, STATE OF KANSAS

This Agreement, by and between Unified School District No. 259, County of Sedgwick, State of Kansas (the “**School District**”), and City of Wichita Parks and Recreation (the “**City**”) made and entered into this 8th day of April, 2013.

NOW, THEREFORE, the parties do mutually agree as follows:

1. **SERVICES:** In consideration of the sum of \$63,600.00 (includes all services, honorarium, travel, lodging, and any other expenses), the City shall perform services as specified in Attachment “A”/Scope of Services, a copy of which is attached to this Agreement.
  2. **TERM:** The term of the scope of services shall be from June 1, 2013 through July 31, 2013. Notwithstanding the foregoing, either party may terminate this Agreement at any time and for any reason, with or without cause, by providing thirty (30) days advance written notice of such termination to the other party.
  3. **PAYMENT:** Payment for services rendered pursuant to this Agreement shall be made upon receipt of **original** invoice(s) in accordance and in conformity with payment dates for bills and claims as published by Business & Financial Services. Reimbursement for airfare, lodging and meal expenses shall comply with School District policies and reimbursement for such expenses will be made in accordance with such policies.
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- Prior to payment, the City must submit **an original**, dated, itemized invoice of services rendered. **(Photocopies or facsimiles of invoices will not be accepted.)** Any reimbursement for expenses included on the invoice(s) must be supported with attached original billing for such expenses.
4. **REVIEW OF WORK:** The School District shall have the right during the term of this Agreement to inspect or review the work of the City and to require such oral or written reports of work progress from the City as may be reasonably necessary to assure proper performance of this Agreement.
  5. **PRODUCTS AND PROCESS OWNERSHIP:** All products, processes, or similar works prepared by the City in the course of the performance of this Agreement shall be the exclusive property of the School District and will be released, if at all, only by and through the School District.
  6. **INDEMNIFICATION:** The City shall indemnify, protect, defend and save the School District harmless from and against any and all claims, demands, liabilities and costs, including attorney’s fees arising from damages or injury, actual or claimed, of whatsoever kind or character, to

property or persons, occurring or allegedly occurring from the performance of the services specified to be performed herein. Upon timely written notice from the School District, the City shall defend the School District in any action or proceedings brought thereon; provided, however, that nothing contained herein shall be construed as requiring the City to indemnify the School District for any claims resulting from the negligence or willful misconduct of the School District or its officials, employees or agents.

7. INDEPENDENT CONTRACTOR: It is agreed and understood that the City shall at all times and for all purposes be deemed an independent contractor and not an employee of the School District, particularly for, but not limited to, the purposes of worker's compensation and the Kansas Tort Claims Act. The parties agree that the City shall be responsible for and shall supervise and direct the services rendered by City's employees under this Agreement.
8. LOSS OF PERSONALTY: The parties agree the School District bears no liability for damages, theft, or other loss of any personal property of the City which may occur on School District premises, whether such loss affects personalty secured or purchased by the City, School District or by means of grant arrangements. If such personalty is material to the performance of the services listed above, it shall be the responsibility of the City to replace it. The School District is the sole judge of materiality.
9. ASSIGNMENT AND DELEGATION: The services to be performed under this Agreement are deemed to be personal in nature and the parties agree the duties may not be delegated nor the Agreement assigned without prior written consent of the School District.
10. AMENDMENTS: The parties agree that no changes, additions, or modifications to this Agreement may be made except by written addendum signed by both parties.
11. DEFAULTS: This Agreement may be terminated by the School District at any time that it determines in its sole discretion that the services listed above are not being performed in accordance with this Agreement. Upon such termination the School District shall pay for services through the date of termination.
12. ADDITIONAL CONTRACTUAL PROVISIONS REQUIRED BY K.S.A. 72-8201c: This City Agreement shall be subject to the following contractual provisions which shall control and prevail over any conflicting provisions contained elsewhere in this City Agreement or any attachment hereto:
  - (a) Agreement with Kansas Law: All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
  - (b) Cash Basis and Budget Law Requirements: The right of the City and the School District to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113) and the Budget Law (K.S.A. 79-2935) and other laws of the State of Kansas. This Agreement shall be construed and interpreted to ensure the City and the School District shall at all times be in conformity with such laws. It is a condition of this Agreement that the City and the School District reserve the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of legal counsel, the Agreement may be deemed to violate the terms of such laws.
  - (c) Disclaimer of Liability: Notwithstanding anything to the contrary elsewhere contained in this Agreement, the School District shall not hold harmless or indemnify any contractor

beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*). In addition, the District shall not indemnify or hold harmless against damages, injury or death resulting from the actions or failure to act on the part of any party to this Agreement other than the Board of Education of the School District or the School District.

- (d) Anti-Discrimination Clause: The City agrees: (i) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 *et seq.*) and the applicable provisions of the American With Disabilities Act (42 U.S.C. 12101 *et seq.*) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (ii) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (iii) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (iv) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (v) that a failure to comply with the reporting requirements of (iii) above or if the City is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of the Agreement and the Agreement may be cancelled, terminated or suspended, in whole or in part, by the School District; (vi) if it is determined that the City has violated applicable provisions of ADA, such violation shall constitute a breach of the Agreement and the Agreement may be cancelled, terminated or suspended, in whole or in part, by the School District.

Parties to this Agreement understand that the provisions of this paragraph number 4 (with the exception of those provisions relating to the ADA) are not applicable to a City who employs fewer than four employees during the term of such Agreement or whose contracts with the School District cumulatively total \$5,000 or less during the fiscal year.

- (e) Arbitration, Damages, Warranties: Notwithstanding any language to the contrary, no interpretation shall be allowed to find the School District or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the School District shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for particular purpose.
- (f) Representative's Authority To Contract: By signing this Agreement, the representative of the City thereby represents that such person is duly authorized by the City to execute this Agreement on behalf of the City and that the City agrees to be bound by the provisions thereof.
- (g) Responsibility for Taxes: The School District shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this Agreement.
- (h) Insurance: The School District shall not be required to purchase any insurance against loss or damage to any personal property to which this Agreement relates, nor shall this Agreement require the School District to establish a "self insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act



(K.S.A. 75-6101 *et seq.*), the City shall bear the risk of any loss or damage to any personal property in which the City holds title.

- (i) IRCA: The City agrees that it is solely responsible for its compliance with the Immigration Reform and Control Act of 1986 ("IRCA"), as amended. City agrees that it will send only work-authorized individuals to District worksites and will only use work-authorized individuals to perform work pursuant to the Agreement. If City knowingly violates IRCA or the regulations implementing IRCA, the District shall be entitled to immediately terminate this Agreement for cause.
- (j) Information: No provision of this Agreement shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 *et seq.*

IN WITNESS WHEREOF, the parties have entered into this Agreement to be effective as of the date of its signing:

**UNIFIED SCHOOL DISTRICT NO. 259, COUNTY OF SEDGWICK, STATE OF KANSAS:**

John Allison  
John Allison, USD 259 Superintendent

4-9-13  
Date



**THE CITY OF WICHITA, KANSAS:**

Mike Willame

\_\_\_\_\_  
Carl Brewer, Mayor

\_\_\_\_\_  
Date

**APPROVED AS TO FORM:**

**ATTEST:**

\_\_\_\_\_  
Gary Rebenstorf, Director of Law and  
City Attorney

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Karen Sublett, City Clerk

# **Summer Activity Camp Recreation**

City of Wichita Parks and Recreation

Company Agreement

## **ATTACHMENT "A"/SCOPE OF SERVICES**

An itemized list of services may be listed below

### **Wichita Public Schools in Partnership with City of Wichita Parks and Recreation**

- The program will take place in a safe and easily accessible facility, which is licensed by the Kansas Department of Health and Environment, Bureau of Child Care Licensing and Regulation
- The program will serve students who have been identified as homeless through the McKinney-Vento Program
- The program will primarily serve students who qualify to receive free or reduced-cost meals.
- Registration and weekly fees are waived for students in the 21<sup>st</sup> Century Program.

### **Location of summer program:**

- Evergreen Recreation Center-2700 N. Woodland
- Colvin Recreation Center-2820 S. Roosevelt
- Lynette Woodard Recreation Center-2750 E. 18<sup>th</sup>/Atwater Neighborhood City Hall 2755 E. 19<sup>th</sup>

Purpose: to provide summer academic, enrichment and recreational program to children and youth ages 6 years to 14 years of age who are in the McKinney-Vento Homeless program and neighborhood at risk students. Children will attend for 8 weeks.

Operation of Services- May 28<sup>th</sup>, 2013 to July 19<sup>th</sup>, 2013 /no programs on July 4<sup>th</sup> & 5<sup>th</sup>.

Evergreen Recreation (100 Students) Budget: \$29,663.60

- 7:00 a.m. – 4:00 p.m.
- AM Snack
- Lunch (Provided by USD 259 Lunch Program)
- PM Snack

Colvin Recreation Centers (50 Students) Budget: \$18,773.38

- 9:00 a.m. – 6:00 p.m.
- AM Snack
- Lunch (Provided by USD 259 Lunch Program)
- PM Snack

Lynette Woodard/Atwater Recreation Center (Serves 50 students) Budget: \$15,163.02

- 1:00-5:00 pm
- Lunch (Provided by USD 259 Lunch Program, prior to summer program.)
- PM Snack

Program Activities:

- Academic (Literacy based activities)
- Enrichment Program (food & nutrition, music, art, dance, cultural)
- Guest presenters (community involvement)
- Recreational sport activities and table games
- Arts and Crafts
- Field Trips
- Summer Family Program
- Community Career Fair

Staffing:

Evergreen Recreation Center

- 2 Head Counselor-Full time
- 3 Assistant Counselors-Full time

Colvin Recreation Center

- 2 Head Counselor-Full time
- 1 Assistant Counselor Full time

Lynette Woodard/Atwater Recreation Center

- 2 Head Counselor -Part time
- 1 Assistant Counselor-Part time

Budget: \$63,600.00

- Staffing-Wages
- Background checks
- Supplies
- Field Trips
- Enrichment / Guest Instructors

City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** Amendments to Chapter 3.11 and 4.16 of the City Code Relating to Community Events and Consumption of Alcoholic Liquor within Temporary Entertainment Districts

**INITIATED BY:** Division of Arts and Cultural Services

**AGENDA:** New Business

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**Recommendation:** Place ordinances on first reading.

**Background:** In 2006, the City Council adopted Chapter 3.11 of the City Code which provides for the regulation of community events occurring within the City. Periodically, changes to these ordinances have been proposed to better regulate such events. As the number and scope of community events occurring within the City continues to increase, the need for additional changes to these ordinances have arisen again and are proposed herein. Additionally, in 2009, the City Council amended Chapter 4.16 of the City Code to establish regulations governing temporary entertainment districts for the consumption of alcoholic liquor upon public property at community events. Last year, these provisions were inadvertently repealed by an unrelated amendment to the City's alcoholic liquor ordinances. The proposed amendment reinstates those regulations.

**Analysis:** Specifically, the proposed amendments to Chapter 3.11 and Chapter 4.16 of the City Code address the following issues:

1. An increase in events held at the Intrust Bank Arena have resulted in a request from the Arena's management staff for the implementation of an annual license designed to streamline the application process. The proposed amendment establishes an annual community event license as well as the fee and application requirements, and which may be made available to other similar venues.
2. Notification requirements for promoters of community events that entail street closures are strengthened to better inform surrounding neighborhoods in advance of such events and provide a forum for those persons impacted by these events to be heard.
3. Community events proposed to occur in a location or for a use not allowed by the City's zoning code may be approved after a public hearing by the City Council for duration not to exceed 10 calendar days.
4. The reinstatement of Section 4.16.070 of the City Code is proposed, which sets forth the requirements for the operation of temporary entertainment districts for the consumption of alcoholic liquor upon public property. This is the same ordinance that was passed by the Council in 2009 as the result of amendments to the Kansas statutes passed by the state legislature. The proposed amendment would correct the mistaken repeal of this section by the City Council in May of 2012, as the result of a typographical error.

**Financial Considerations:** The proposed amendment provides for a fee of \$1,000 for an annual community event license, which will provide additional revenue to help offset increasing costs to the City for such events.

**Legal Considerations:** The proposed ordinance amendments have been prepared and approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the City Council place the ordinance on first reading.

**Attachment:** Ordinances.

3/27/13

ORDINANCE NO. 49-487

AN ORDINANCE AMENDING SECTIONS 3.11.070, 3.11.080, 3.11.090, AND 3.11.150 AND CREATING SECTIONs 3.11.055 AND 4.16.070 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO COMMUNITY EVENTS AND ALCOHOLIC LIQUOR AND REPEALING THE ORIGINALS OF SAID SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.11.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows: “**Fees.** (a) All applications for a community event license shall include an application fee which shall not be refundable, the amount of which shall be set by the City Manager and approved by a resolution of the City Council.

(b) All applicants for events whether held on private or public property shall be responsible for any applications, fees, licenses, permits and any rental fees which may be required based upon the scope and nature of event. The City Manager shall establish a schedule of fees for special events. Such schedule of fees shall be approved by a resolution of the City Council.

(c) No application shall be accepted by the Community Events Coordinator less than ten (10) business days prior to the proposed event, except as set forth in Section 3.11.055 of this Chapter.

(d) Applications for a community event submitted less than 30 business days, but more than ten (10) business days prior to a proposed event require an additional administrative fee of \$75.00 to expedite the application, except as set forth in Section 3.11.055 of this Chapter.”

SECTION 2. Section 3.11.080. of the Code of the City of Wichita is hereby amended to read as follows: “**Review process.** Subject to Section 3.11.090, the Community Events Coordinator shall approve a community event permit if it is determined that all of the following criteria have been met:

- (a) The event will not obstruct the operation of emergency vehicles or equipment in or through the particular permit area;
- (b) The proposed event does not present a safety, noise, or traffic hazard;
- (c) The proposed event conforms to regulations regarding the use or allowable number of participants for the proposed venue, location, or site; and
- (d) The proposed event does not violate any provisions of the Code of the City of Wichita, the laws of the State of Kansas or the laws of the United States, except as provided in Subsection 3.11.090(h);
- (e) If the proposed event is to occur on park property, the event conforms to regulations of the Board of Park Commissioners;
- (f) If the event requires the closure of public streets, such street closures have been approved by the City Council;
- (g) If the event requests exclusive use of park property, such request has been approved by the City Council pursuant to Section 9.03.170 of the Code of the City of Wichita;
- (h) The proposed parade or motor vehicle event complies with the provisions of Section 3.14.050;
- (i) In deciding whether to approve an application, no consideration may be given to the message of the event, the content of speech, the identity or associational relationships of the

applicant, or to any assumptions or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the event.”

SECTION 3. Section 3.11.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows: “**Denial of permit.** The Community Events Coordinator may deny an application for a Community Events Permit if he or she finds any of the following:

- (a) One or more of the approval criteria specified in Section 3.11.080 is not met;
- (b) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;
- (c) The application is incomplete, does not include payment of required fees, or does not contain the information required by this Chapter;
- (d) The application does not satisfy the requirements of this Chapter or administrative regulations adopted by the Community Events Coordinator;
- (e) The applicant fails to comply with any conditions of approval including, but not limited to:
  - (1) Remittance of fees, charges or deposits;
  - (2) Proof of liability insurance required;
  - (3) Obtaining all other permits and licenses as required by the City Code for the proposed event.
- (f) The applicant, in the last two years, has had a previous community event permit revoked for failure to comply with the terms or conditions of the permit, or for violations of the ordinances of the City of Wichita.
- (g) The applicant, in the last two years, has organized a community event which did not conform to the plans and application submitted to the Community Events Coordinator or



which failed to comply with any conditions for such event placed on the event by the Community Event Coordinator.

(h) The proposed event would be in violation of the Code of the City of Wichita, the laws of the State of Kansas or the laws of the United States, however, events proposed to occur in a location or for a use not allowed by the Wichita-Sedgwick County Unified Zoning Code shall be set for a public hearing before the City Council and if approved, may be granted a permit, but no such event shall be approved for a duration exceeding ten (10) calendar days.

(i) The event fails to conform to regulations regarding the use and allowable number of participants for the proposed venue, location or site.

(j) The proposed event fails to conform to regulations adopted by the Director of Parks and Recreation.

(k) The applicant, event vendors or participants have failed to comply with the terms and conditions of a prior community event permit.

(l) The applicant, within the last two years, has failed to obtain the appropriate permits and licenses for a previous community event.

(m) The applicant demonstrates an unwillingness or inability to conduct the proposed event pursuant to the terms of this Chapter.

(n) The City does not have the necessary resources to accommodate the event because of its locations and/or duration.

(o) The application was not filed more than ten business days prior to the proposed event with the Community Event Coordinator.

The applicant shall be notified of the denial in writing. The denial shall set forth the specific reasons for the denial of the application.”

SECTION 4. Section 3.11.150 of the Code of the City of Wichita, Kansas is hereby amended to read as follows: “**Street closures.** (a) All street closure requests, including those closures which are necessary as part of a community event or temporary entertainment district application must be approved by the City Council.

(b) The following requirements must be met before a street closure is approved:

1. A completed application for a street closure must be submitted to the Community Events Coordinator at least 45 days prior to the date of the proposed street closure. An administrative fee of \$25.00 shall accompany any application for a street closure. Such fee shall not be required for street closures as part of a block party as authorized by Section 3.11.220. This fee covers administrative expenses and notification of transit, ambulance, police and fire departments of the street closure.

2. The applicant is responsible for attempting to secure the cooperation of all property owners/residents affected by the street closing and will notify all such property owners/residents in writing of the upcoming event by either mailing or delivering such notice to them. The written notice required by this section shall include a statement that any affected property owner/resident may contact city staff to express approval or disapproval or objection to the street closure, along with the phone number and email address for the Community Event Coordinator. The applicant shall provide proof of compliance with this requirement by attaching to the community event permit application a copy of the notice sent and a list of the name and address of the property owners/residents to whom such notice was sent. Failure to notify any property owners/residents may result in the denial of the application or require a change in the scheduled closing date. If more than one-third (1/3) of the property owners/residents

affected by the street closure object to or express disapproval, the request for street closure shall be set for a hearing in front of the City Council for final determination.

3. The applicant must be the responsible party or event promoter for the event.

4. The applicant will provide a sketch of the street area indicating the area to be closed and the location of all properties adjacent to the area being closed.

5. The closure of the street affected by the event must not cause a significant hardship to pedestrian or vehicular traffic. Alternative routes must be available for public and emergency vehicles.

6. The applicant is responsible for obtaining and placing barricades for the street closure and for removing the barricades promptly after the event is concluded.

7. The applicant must, promptly after the conclusion of the event, clean the right-of-way to its condition prior to the street closure.

8. The applicant must allow City personnel, emergency vehicles and police officers to lawfully enter the area. Orders or directions given by police or fire officials in the lawful discharge of their duties must be obeyed.

9. If required, the applicant must hire and pay compensation for a Wichita Police Officer, who is a certified law enforcement officer, to direct traffic which must be re-routed due to the street closure.

(c) The community event permit holder, any holder of a temporary permit license to sell alcoholic liquor, and any drinking establishment serving, selling or distributing alcoholic liquor on City streets or sidewalks, which have been closed pursuant to this Section as a temporary entertainment district, shall meet with the Community Event Coordinator and City

staff, no less than seven days prior to the event, to review security plans and procedures to be utilized by the vendors relating to the sale and consumption of alcoholic liquor.

SECTION 5. Section 3.11.055 of the Code of the City of Wichita, Kansas is hereby created to read as follows: “**Annual permit for certain properties.** (a) A permit to conduct community events shall be issued on an annual basis, commencing January 1<sup>st</sup>, for the Intrust Bank Arena and any other properties as approved by the Community Events Coordinator.

(b) The fee for such annual permits shall be \$1,000.

(c) The annual permit shall allow unlimited events where public access is not impeded and that occur completely upon the sidewalk area and/or the parking lot immediately adjacent to the Intrust Bank Arena, or immediately adjacent to any other properties where an annual permit has been approved. Such events shall also be exempt from the application process set forth in Section 3.11.060 of this Chapter. The licensee will provide written notice of at least ten (10) business days in advance of such events to the Community Events Coordinator, however, this notice requirement may be waived if circumstances exist that justify such a waiver and there is no objection from other City departments impacted by such event. Written notice shall be made on a form or in such manner as approved by the Community Event Coordinator and shall include proof of liability insurance and a list of any other licenses or permits issued for said event.

(d) Events as described in Subsection (c) herein that require a street closure or will otherwise impede public access or utilize property in addition to that which is immediately adjacent to set forth in Subsection (c) herein shall be subject to all requirements of this Chapter, including, but not limited to, filing an application within the time limits as required by Section

3.11.060. No additional fee shall be required to accompany said application, however all other requirements of a community event permit shall be applicable.

(e) The issuance of an annual community event permit shall not negate the responsibility of the licensee to acquire all other necessary permits or licenses that are applicable to or may be required for such an event.

(f) The Community Event Coordinator reserves the right to deny approval of any event submitted pursuant to an annual community event permit for any of the reasons set forth in Section 3.11.090 except subsection (o), and such denial may be appealed as set forth in Section 3.11.110.”

SECTION 6. Section 4.16.070 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: “**License exclusive to premises issued.** (a) The license provided in this chapter shall be issued for one particular premises which shall be stated in the application and in the license. No license shall be issued for premises wherein the use thereof would be in violation of the city zoning laws or the city building codes or fire codes. Nothing in this section shall be construed to require a fixed premise for persons licensed as a caterer pursuant to article 26 of Chapter 41 of Kansas Statutes Annotated.

(b) Any licensed premises which includes the exterior of a building and/or an outdoor area must be adequately lighted during all business hours.

(c) Except as provided in subsection (e), any licensed premises which includes the exterior of a building must be enclosed by a fence or approved diverters in such a way as to allow access only through a single structure designated as the official gate or entrance.

(d) Any licensed premises which is an outdoor area must have its boundaries clearly marked or fenced so as to allow access only through an official gate or entrances.

(e) Any licensed premises of a special event, for which a temporary permit has been issued pursuant to K.S.A. 41-2645 and amendments thereto, shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(f) The licensed premises of drinking establishments that are immediately adjacent to, or located within the licensed premises of a special event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may be extended into and made a part of the licensed premises of the special event for the duration of the temporary permit issued for such special event.”

SECTION 7. The originals Sections 3.11.070, 3.11.080, 3.11.090 and 3.11.150 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 8. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 23rd day of April, 2013.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf  
Director of Law

First Published in The Wichita Eagle on \_\_\_\_\_

DELINEATED

3/27/13

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTIONS 3.11.070, 3.11.080, 3.11.090, AND 3.11.150 AND CREATING SECTIONs 3.11.055 AND 4.16.070 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO COMMUNITY EVENTS AND ALCOHOLIC LIQUOR AND REPEALING THE ORIGINALS OF SAID SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.11.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows: “**Fees.** (a) All applications for a community event license shall include an application fee of ~~\$25.00~~ which shall not be refundable, the amount of which shall be set by the City Manager and approved by a resolution of the City Council.

(b) All applicants for events whether held on private or public property shall be responsible for any applications, fees, licenses, permits and any rental fees which may be required based upon the scope and nature of event. The City Manager shall establish a schedule of fees for special events. Such schedule of fees shall be approved by a resolution of the City Council.

(c) No application shall be accepted by the Community Events Coordinator less than ten (10) business days prior to the proposed event, except as set forth in Section 3.11.055 of this Chapter.

(d) Applications for a community event submitted less than 30 business days, but more than ten (10) business days prior to a proposed event require an additional administrative fee of \$75.00 to expedite the application, except as set forth in Section 3.11.055 of this Chapter.”



SECTION 2. Section 3.11.080. of the Code of the City of Wichita is hereby amended to read as follows: “**Review process.** Subject to Section 3.11.090, the Community Events Coordinator shall approve a community event permit if it is determined that all of the following criteria have been met:

- (a) The event will not obstruct the operation of emergency vehicles or equipment in or through the particular permit area;
- (b) The proposed event does not present a safety, noise, or traffic hazard;
- (c) The proposed event conforms to regulations regarding the use or allowable number of participants for the proposed venue, location, or site; and
- (d) The proposed event does not violate any provisions of the Code of the City of Wichita, the laws of the State of Kansas or the laws of the United States, except as provided in Subsection 3.11.090(h);
- (e) If the proposed event is to occur on park property, the event conforms to regulations of the Board of Park Commissioners;
- (f) If the event requires the closure of public streets, such street closures have been approved by the City Council;
- (g) If the event requests exclusive use of park property, such request has been approved by the City Council pursuant to Section 9.03.170 of the Code of the City of Wichita;
- (h) The proposed parade or motor vehicle event complies with the provisions of Section 3.14.050;
- (i) In deciding whether to approve an application, no consideration may be given to the message of the event, the content of speech, the identity or associational relationships of the

applicant, or to any assumptions or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the event.”

SECTION 3. Section 3.11.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows: “**Denial of permit.** The Community Events Coordinator may deny an application for a Community Events Permit if he or she finds any of the following:

- (a) One or more of the approval criteria specified in Section 3.11.080 is not met;
- (b) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;
- (c) The application is incomplete, does not include payment of required fees, or does not contain the information required by this Chapter;
- (d) The application does not satisfy the requirements of this Chapter or administrative regulations adopted by the Community Events Coordinator;
- (e) The applicant fails to comply with any conditions of approval including, but not limited to:
  - (1) Remittance of fees, charges or deposits;
  - (2) Proof of liability insurance required;
  - (3) Obtaining all other permits and licenses as required by the City Code for the proposed event.
- (f) The applicant, in the last two years, has had a previous community event permit revoked for failure to comply with the terms or conditions of the permit, or for violations of the ordinances of the City of Wichita.
- (g) The applicant, in the last two years, has organized a community event which did not conform to the plans and application submitted to the Community Events Coordinator or

which failed to comply with any conditions for such event placed on the event by the Community Event Coordinator.

(h) The proposed event would be in violation of the Code of the City of Wichita, the laws of the State of Kansas or the laws of the United States, however, events proposed to occur in a location or for a use not allowed by the Wichita-Sedgwick County Unified Zoning Code shall be set for a public hearing before the City Council and if approved, may be granted a permit, but no such event shall be approved for a duration exceeding ten (10) calendar days.

(i) The event fails to conform to regulations regarding the use and allowable number of participants for the proposed venue, location or site.

(j) The proposed event fails to conform to regulations adopted by the Director of Parks and Recreation.

(k) The applicant, event vendors or participants have failed to comply with the terms and conditions of a prior community event permit.

(l) The applicant, within the last two years, has failed to obtain the appropriate permits and licenses for a previous community event.

(m) The applicant demonstrates an unwillingness or inability to conduct the proposed event pursuant to the terms of this Chapter.

(n) The City does not have the necessary resources to accommodate the event because of its locations and/or duration.

(o) The application was not filed more than ten business days prior to the proposed event with the Community Event Coordinator.

The applicant shall be notified of the denial in writing. The denial shall set forth the specific reasons for the denial of the application.”

SECTION 4. Section 3.11.150 of the Code of the City of Wichita, Kansas is hereby amended to read as follows: “**Street closures.** (a) All street closure requests, including those closures which are necessary as part of a community event or temporary entertainment district application must be approved by the City Council.

(b) The following requirements must be met before a street closure is approved:

1. A completed application for a street closure must be submitted to the Community Events Coordinator at least 45 days prior to the date of the proposed street closure. An administrative fee of \$25.00 shall accompany any application for a street closure. Such fee shall not be required for street closures as part of a block party as authorized by Section 3.11.220. This fee covers administrative expenses and notification of transit, ambulance, police and fire departments of the street closure.

2. The applicant is responsible for attempting to secure the cooperation of all property owners/residents affected by the street closing and will ~~provide proof that~~ notify all such property owners/residents in writing of the upcoming event by either mailing or delivering such notice to them. ~~have been notified by attaching to the application a statement signed by all affected property owners/resident listing the name, address and telephone number of the person contacted expressing their approval or disapproval of the street closure.~~ The written notice required by this section shall include a statement that any affected property owner/resident may contact city staff to express approval or disapproval or objection to the street closure, along with the phone number and email address for the Community Event Coordinator. The applicant shall provide proof of compliance with this requirement by attaching to the community event permit application a copy of the notice sent and a list of the name and address of the property

owners/residents to whom such notice was sent. Failure to notify any property owners/residents may result in the denial of the application or require a change in the scheduled closing date. If more than one-third (1/3) of the property owners/residents affected by the street closure object to or express disapproval, the request for street closure shall be set for a hearing in front of the City Council for final determination.

3. The applicant must be the responsible party or event promoter for the event.

4. The applicant will provide a sketch of the street area indicating the area to be closed and the location of all properties adjacent to the area being closed.

5. The closure of the street affected by the event must not cause a significant hardship to pedestrian or vehicular traffic. Alternative routes must be available for public and emergency vehicles.

6. The applicant is responsible for obtaining and placing barricades for the street closure and for removing the barricades promptly after the event is concluded.

7. The applicant must, promptly after the conclusion of the event, clean the right-of-way to its condition prior to the street closure.

8. The applicant must allow City personnel, emergency vehicles and police officers to lawfully enter the area. Orders or directions given by police or fire officials in the lawful discharge of their duties must be obeyed.

9. If required, the applicant must hire and pay compensation for a Wichita Police Officer, who is a certified law enforcement officer, to direct traffic which must be re-routed due to the street closure.

(c) The ~~licensee~~ community event permit holder, any holder of a temporary permit license to sell alcoholic liquor, and any drinking establishment serving, selling or distributing alcoholic liquor on City streets or sidewalks, which have been closed pursuant to this Section as a temporary entertainment district, shall meet with the Community Event Coordinator and City staff, no less than seven days prior to the event, to review security plans and procedures to be utilized by the vendors relating to the sale and consumption of alcoholic liquor.

SECTION 5. Section 3.11.055 of the Code of the City of Wichita, Kansas is hereby created to read as follows: “**Annual permit for certain properties.** (a) A permit to conduct community events shall be issued on an annual basis, commencing January 1<sup>st</sup>, for the Intrust Bank Arena and any other properties as approved by the Community Events Coordinator.

(b) The fee for such annual permits shall be \$1,000.

(c) The annual permit shall allow unlimited events where public access is not impeded and that occur completely upon the sidewalk area and/or the parking lot immediately adjacent to the Intrust Bank Arena, or immediately adjacent to any other properties where an annual permit has been approved. Such events shall also be exempt from the application process set forth in Section 3.11.060 of this Chapter. The licensee will provide written notice of at least ten (10) business days in advance of such events to the Community Events Coordinator, however, this notice requirement may be waived if circumstances exist that justify such a waiver and there is no objection from other City departments impacted by such event. Written notice shall be made on a form or in such manner as approved by the Community Event Coordinator and shall include proof of liability insurance and a list of any other licenses or permits issued for said event.

(d) Events as described in Subsection (c) herein that require a street closure or will otherwise impede public access or utilize property in addition to that which is immediately adjacent to set forth in Subsection (c) herein shall be subject to all requirements of this Chapter, including, but not limited to, filing an application within the time limits as required by Section 3.11.060. No additional fee shall be required to accompany said application, however all other requirements of a community event permit shall be applicable.

(e) The issuance of an annual community event permit shall not negate the responsibility of the licensee to acquire all other necessary permits or licenses that are applicable to or may be required for such an event.

(f) The Community Event Coordinator reserves the right to deny approval of any event submitted pursuant to an annual community event permit for any of the reasons set forth in Section 3.11.090 except subsection (o), and such denial may be appealed as set forth in Section 3.11.110.”

SECTION 6. Section 4.16.070 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: “**License exclusive to premises issued.** (a) The license provided in this chapter shall be issued for one particular premises which shall be stated in the application and in the license. No license shall be issued for premises wherein the use thereof would be in violation of the city zoning laws or the city building codes or fire codes. Nothing in this section shall be construed to require a fixed premise for persons licensed as a caterer pursuant to article 26 of Chapter 41 of Kansas Statutes Annotated.

(b) Any licensed premises which includes the exterior of a building and/or an outdoor area must be adequately lighted during all business hours.

(c) Except as provided in subsection (e), any licensed premises which includes the exterior of a building must be enclosed by a fence or approved diverters in such a way as to allow access only through a single structure designated as the official gate or entrance.

(d) Any licensed premises which is an outdoor area must have its boundaries clearly marked or fenced so as to allow access only through an official gate or entrances.

(e) Any licensed premises of a special event, for which a temporary permit has been issued pursuant to K.S.A. 41-2645 and amendments thereto, shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(f) The licensed premises of drinking establishments that are immediately adjacent to, or located within the licensed premises of a special event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may be extended into and made a part of the licensed premises of the special event for the duration of the temporary permit issued for such special event.”

SECTION 7. The originals Sections 3.11.070, 3.11.080, 3.11.090 and 3.11.150 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 8. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.



PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law

**City of Wichita  
City Council Meeting  
April 16, 2013**

**TO:** Mayor and City Council

**SUBJECT:** Health & Wellness Coalition of Wichita Community Transformation Grant Memorandum of Understanding

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** New Business

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**Recommendation:** Approve the Memorandum of Understanding and authorize the necessary signatures.

**Background:** The Health & Wellness Coalition of Wichita (H&WC) has secured a \$2.4 million Community Transformation Grant – Small Communities award from the Centers for Disease Control and Prevention (CDC). The purpose of the grant is to help prevent chronic diseases such as cancer, diabetes, and heart disease. The Greater Wichita YMCA (YMCA) is the fiscal agent for the H&WC. The funding will be utilized by the YMCA, on behalf of the H&WC, to promote a healthy environment, healthy eating, and tobacco-free living.

As part of the strategy to promote a healthy environment, the H&WC has offered to provide funding to assist with the creation of a Wichita Pedestrian Master Plan and multiple projects to help implement the Wichita Bicycle Master Plan (2013). The projects to help implement the Wichita Bicycle Master Plan include: the development of designs for multiple bikeways (lanes, paths, etc.); creation of a routine accommodation policy; and development of street design standards.

**Analysis:** The funding from the YMCA, on behalf of the H&WC, will assist the City of Wichita to undertake projects that will make it easier, safer, and more convenient for people to travel within the city by walking and riding a bicycle.

The creation of the Pedestrian Master Plan will assist the City to learn more about the needs of Wichita residents related to walking and how to achieve the greatest returns on investments in improving conditions for walking in Wichita. Wichita residents have shown a desire to improve conditions for walking, as demonstrated by the results of the National Citizen Survey. The National Citizen Survey compares the satisfaction of Wichita residents to the satisfaction of residents in other similar cities. The City of Wichita conducted the survey in 2006, 2010, and 2012. The cumulative results of the surveys have shown that the satisfaction of Wichita residents with the ease of walking is below the national benchmark.

The funding to assist with activities recommended in the Wichita Bicycle Master Plan will help the City to implement the following plan strategies.

- Strategy 1: Provide on-street and off-street bicycle facilities where recommended
- Strategy 2: Adopt policies to ensure that the City's project planning and review processes account for bicycle facilities.

**Financial Considerations:** The City will be reimbursed by the YMCA, acting on behalf of the H&WC, for the projects specified in the attached Memorandum of Understanding after submitting invoices to the YMCA/H&WC. The total amount of H&WC funding identified in the Memorandum of Understanding with the City is \$687,220. By signing the Memorandum of Understanding, the City agrees to contribute \$66,012 in order to help fund the development of the bikeways designs. It is recommended that the City

funding be provided from the \$500,000 available in the 2013 Bike Enhancement line item in the 2011-2020 adopted City CIP.

**Legal Considerations:** The Law Department has reviewed the Memorandum of Understanding and approved it as to form.

**Recommendations/Actions:** It is recommended that the City Council approve the Memorandum of Understanding and authorize the necessary signatures.

**Attachments:**

Memorandum of Understanding, Wichita Bicycle and Pedestrian Projects

**MEMORANDUM OF UNDERSTANDING**

**WICHITA BICYCLE AND PEDESTRIAN PROJECTS**

**CITY OF WICHITA, KANSAS,**  
A Municipal Corporation,

AND

**GREATER WICHITA YMCA (PAYOR)**  
A Kansas not-for-profit corporation  
(402 N. Market Street, Wichita, KS 67202)

**WHEREAS**, the Greater Wichita YMCA is an independent, non-profit agency and fiscal agent for the Health & Wellness Coalition; and

**WHEREAS**, the mission of Health and Wellness Coalition of Wichita is to promote physical activity and good nutrition for every generation living in the Greater Wichita Area through people, programs, and policies; and

**WHEREAS**, the Greater Wichita YMCA/Health & Wellness Coalition (Payor) has allocated up to \$687,220 from its Center for Disease Control Community Transformation Grant - Small Community funds for the City of Wichita (City) in order to develop infrastructure designs, infrastructure standards, approaches for the provision of infrastructure, community-wide plans, educational opportunities, and communication efforts related to active transportation – including bicycling and walking; and

**WHEREAS**, the City Council has endorsed the 2013 Wichita Bicycle Master Plan as a guide for infrastructure, policies, and programs related to bicycling in Wichita; and

**WHEREAS**, the Wichita Bicycle Master Plan contains recommendations that the City develop infrastructure designs, infrastructure standards, approaches for the provision of infrastructure, educational opportunities, and communication efforts related to bicycling ; and

**WHEREAS**, only 50 percent of Wichita residents responding to the 2010 Wichita National Citizen Survey City of Wichita rated the ease of walking in Wichita as “excellent” or “good”, which is much below the national benchmark for similar cities; and

**WHEREAS**, the Payor and City both desire to retain professional services to assist with projects to develop infrastructure designs, infrastructure standards, approaches for the provision of infrastructure, educational opportunities, and communication efforts related to bicycling and walking; and

**WHEREAS**, the Payor desires to fund all or a portion of the costs associated with said professional services.

**NOW, THEREFORE**, the parties do mutually agree as follows:

**SECTION 1. SCOPE OF SERVICES.** The City shall enter into contracts for professional services for the projects described in ATTACHMENT A. The consultant teams selected for the contract for professional services shall be selected pursuant to the City's consultant selection process. The City shall administer the contract for professional services and provide project management.

**SECTION 2. FUNDING** The Payor shall provide the amount of funding described in ATTACHMENT A for the projects referenced in Section 1. The City shall provide the amount of City funding described in ATTACHMENT A for the projects referenced in Section 1.

**SECTION 3. PAYMENTS.** Upon receipt of an invoice from the consultant teams for work completed and satisfactory to the City for the projects referenced in Section 1 and/or as work is performed by the City on the projects, the City shall submit invoices to the Payor for reimbursement. The total amount of invoices from the City to the Payor shall not exceed the total Payor funding amount specified in Section 2. The Payor agrees to pay said invoice to the City within 30 days.

**SECTION 4. COORDINATION REQUIREMENTS.** The City and Payor shall undertake the following activities to ensure coordination between the two agencies.

- A. The Payor shall designate a Project Director to coordinate the projects specified in Section 1 with the City.
- B. The City shall designate a Project Coordinator to coordinate the projects specified in Section 1 with the Payor.
- C. The Payor Project Director and the City Project Coordinator shall meet and/or communicate weekly to discuss project progress and activities.

**SECTION 3. AMENDMENTS.** To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Payor mutually agree, changes in this MOU may be effected by placing them in written form and incorporating them into this document.

The parties have executed this Memorandum of Understanding on this 16<sup>th</sup> day of April 2013.

**THE CITY OF WICHITA, KANSAS**

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Carl Brewer, Mayor

**ATTEST:**

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Karen Sublett, City Clerk

**Greater Wichita YMCA (Payor)**

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Dennis Schoenebeck, General Executive

**Approved as to Form:**

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Gary Rebenstorf, Director of Law

Attachment A  
Greater Wichita YMCA/Health & Wellness Coalition and  
City of Wichita Bicycle and Pedestrian Projects

Project Title	Project Description	Funding Amount	
		YMCA/ H&WC	City of Wichita
Wichita Pedestrian Master Plan	This project will develop a pedestrian master plan for the City of Wichita. The planning process will identify the community needs related to walking and the Plan will help to prioritize and address those needs as a guide for City infrastructure, policies, and programs. The Plan will identify future goals and prioritized implementation actions to achieve them.	\$190,000	\$0
Wichita Bicycle Master Plan Implementation – Bikeways Designs	<p>This project will develop construction designs for the development of the following bicycle facilities identified in the Wichita Bicycle Master Plan</p> <ul style="list-style-type: none"> <li>• Douglas Avenue bikeways (shared lane markings or bike lanes) from Seneca St. to Washington Ave.</li> <li>• 1<sup>st</sup> St. and 2<sup>nd</sup> St. bike lanes from I-135 to the Arkansas River; and bike lanes on 2<sup>nd</sup> St. from the Arkansas River to Seneca St.</li> <li>• Market St. and Topeka Ave. bikeways (bike lanes or shared lane markings) from 21<sup>st</sup> St to Mt Vernon Rd</li> <li>• Armour Bicycle Boulevard from Douglas Ave. to K-96</li> <li>• Porter Ave. Bikeway: bikeways (shared lane markings or bike lanes) on Porter Ave., 20<sup>th</sup> St., and Woodrow Ave. from 18<sup>th</sup> St. to 21<sup>st</sup> St.; and on 17<sup>th</sup> St. and 18<sup>th</sup> St. from I-135 to Porter Ave.</li> <li>• WSU to Schweiter Bikeway: shared lane markings from Green St., Estelle Ave., Volutsia Ave., Kellogg Dr., Chautauqua Ave. from the Redbud Path to Lincoln St.; and bicycle boulevard on Chautauqua Ave., Menlo Dr., Schweiter Dr., Rivera St., and Ash St. from Lincoln St. to an I-135 pedestrian bridge</li> <li>• Mount Vernon Bike Lanes from Broadway Ave. to Woodlawn Blvd.</li> </ul>	\$279,469	\$66,012

Routine Accommodation Policy	This project would develop a City of Wichita Routine Accommodation Policy to ensure that routine road projects such as resurfacing, striping, construction, and other projects include the installation of new bicycle facilities – where feasible and recommended by the Wichita Bicycle Master Plan	\$30,000	\$0
Street Design Standards	This project would develop street design standards for the City of Wichita. The street design standards would provide details about how bicycle facilities should be accommodated within the public ROW.	\$183,336	\$0
City Administration Fee	A fee of 0.63 percent charged for all planning grant funding administered by the City.	\$4,415	\$0
Total		\$687,220	\$66,012



Wichita, Kansas  
April 15, 2013  
10:00 a.m., Monday  
Conference Room, 12th Floor

**MINUTES - BOARD OF BIDS AND CONTRACTS\***

The Board of Bids and Contracts met with Martha Strayer, Administrative Assistant, Public Works Engineering in the Chair; Fanny Chan, Accountant, Finance, representing the Director of Finance, Elizabeth Goltry Wadle, Budget Analyst, Budget Office, Clarence Rose, Senior Buyer, representing Purchasing, Jason Earl, Management Intern, representing the City Manager's Office and Janis Edwards Deputy City Clerk, present.

Minutes of the regular meeting dated April 8, 2013, were read and on motion approved.

Bids were opened on April 12, pursuant to advertisements published on:

**PUBLIC WORKS AND UTILITIES DEPARTMENT/FLEET AND FACILITIES  
DIVISION: Asphalt Rollers.**

Foley Equipment Co. Inc. - \$149,839.40

**PUBLIC WORKS AND UTILITIES DEPARTMENT/FLEET AND FACILITIES  
DIVISION: Skid Steer Loader Four Wheel Drive.**

Defer one week

**HOUSING AND COMMUNITY SERVICES DEPARTMENT/PUBLIC HOUSING  
DIVISION: Thermal Break Primary Windows.**

Columbia Industries Inc.\* - \$35,510.25 (Corrected Total)

\*Estimate – Contract approved on unit cost basis; refer to attachments.

**INFORMATION TECHNOLOGY/INFORMATION SERVICES: Siemens Phone System.**

Siemens\* - \$154,353.00

\*Purchases utilizing Sole Source of Supply Ordinance No. 35-856, Section 2. (b)

The Purchasing Division recommended that the contracts be awarded/deferred as outlined above, same being the lowest and best bid.

On motion the Board recommended that the contracts be awarded/deferred as outlined above, same being the lowest and best bid.

On motion the Board of Bids adjourned.

Martha Strayer, Administrative Assistant,  
Department of Public Works

Janis Edwards, CMC  
Deputy City Clerk

## FORMAL BID REPORT

TO: Robert Layton, City Manager

DATE: April 15, 2013

**PURCHASING BIDS – MELINDA A. WALKER, PURCHASING MANAGER****April 12, 2013**

Asphalt Rollers – Public Works &amp; Utilities Department/Fleet &amp; Facilities Division

**Foley Equipment Company, Inc.****\$149,839.40**

Skid Steer Loader Four Wheel Drive – Public Works &amp; Utilities Department/Fleet &amp; Facilities Division

**(Defer to April 22, 2013)**

Thermal Break Primary Windows – Housing &amp; Community Services Department/Public Housing Division (See Exhibit B for Itemized Pricing in the Formal Bid Report).

**Columbia Industries, Inc. (Deferred from April 8, 2013) (Corrected Total)****\$35,510.25**

Siemens Phone System – Information Technology Department/Information Services Division (IT/IS)

**Siemens****Sole Source of Supply, Ordinance No. 35-856, Section 2(b) \$154,353.00****ITEMS TO BE PURCHASED AS ADVERTISED IN THE OFFICIAL CITY NEWSPAPER.**  
Melinda A. Walker  
Purchasing Manager



**Bid Results**

**Registration   Solicitations   Document Inquiry   Login   Help**

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

**Vendor   Group   Line**

**Solicitation: FB340054   Asphalt Rollers**

**Close Date/Time: 4/12/2013 10:00 AM CST**

**Solicitation Type: Formal Bid**

**[Return to the Bid List](#)**

**Award Method: Line**

**Department: Public Works Fleet & Facilities**

**Responses: 7**

<b>Vendors</b>	<b>Complete</b>	<b>Bid Total</b>	<b>City Comments</b>
<u>FOLEY EQUIPMENT CO INC</u>	Complete	\$149,839.40	Award 04/16/2013 Public Works & Utilities Department/Fleet & Facilities Division
<u>G W VAN KEPPEL</u>	Complete	\$159,175.00	
<u>LOGAN CONTRACTORS SUPPLY</u>	Complete	\$169,935.00	
<u>VICTOR L PHILLIPS COMPANY</u>	Complete	\$171,837.35	
<u>MURPHY TRACTOR &amp; EQUIPMENT CO INC</u>	Complete	\$173,815.00	
<u>D &amp; D EQUIPMENT &amp; SALES</u>	Complete	\$198,760.00	
<u>SELLERS EQUIPMENT INC</u>	Complete	\$211,100.00	

**[Top of the Page](#)**



**Bid Results**
[Registration](#)   [Solicitations](#)   [Document Inquiry](#)   [Login](#)   [Help](#)

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

**Vendor      Group      Line**
**Solicitation: FB340057      Skid Steer Loader Four  
Wheel Drive**
**Close Date/Time: 4/12/2013 10:00 AM CST**
**Solicitation Type: Formal Bid**
[Return to the Bid List](#)
**Award Method: Aggregate Cost**
**Department: Public Works Fleet & Facilities**
**Responses: 4**

Vendors	Complete	Bid Total	City Comments
<a href="#">BERRY COMPANIES INC</a>	Complete	\$204,741.50	Defer to 04/22/2013 Public Works & Utilities Dept./Fleet & Facilities Division
<a href="#">MURPHY TRACTOR &amp; EQUIPMENT CO INC</a>	Complete	\$248,643.00	
<a href="#">MCCONNELL &amp; ASSOCIATES CORP</a>	In-Complete	\$0.00	
<a href="#">PRICE BROS EQUIPMENT CO</a>	Partial	\$220,050.00	Corrected total from unit prices <a href="#">Top of the Page</a>





**Bid Results**

**Registration   Solicitations   Document Inquiry   Login   Help**

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

**Vendor      Group      Line**  
**Solicitation: FB340059      Thermal Break Primary Windows      Close Date/Time: 4/5/2013 10:00 AM CST**

**Solicitation Type: Formal Bid**

**[Return to the Bid List](#)**

**Award Method: Aggregate Cost**

**Department: Housing & Community Services**

**Responses: 3**

<b>Vendors</b>	<b>Complete</b>	<b>Bid Total</b>	<b>City Comments</b>
<u><a href="#">RICHARDS BUILDING SUPPLY CO</a></u>	Complete	\$26,425.55	Does Not Meet Specifications
<u><a href="#">COLUMBIA INDUSTRIES INC</a></u>	Complete	\$35,510.25	Award 4/16/2013 Housing & Community Services Dept/Public Housing Division - Corrected Total
<u><a href="#">JORDAN COMPANIES INC</a></u>	Complete	\$36,900.00	

**[Top of the Page](#)**





This page summarizes vendor bids by the extended cost for each commodity line on the solicitation.

Vendor      Group      Line  
 Solicitation: **FB340059**      Thermal Break Primary Windows      Close Date/Time: 4/5/2013 10:00 AM CST

Solicitation Type: **Formal Bid**      [Return to the Bid List](#)  
 Award Method: **Aggregate Cost**  
 Department: **Housing & Community Services**      Responses: **3**  
 Go to: 001

Line 001 Thermal break primary windows, double hung, as per the following sizes, united inches, inches of frame length and inches of frame width. Manufacturer \_\_\_\_\_ Model \_\_\_\_\_ 0" thru 50"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	5	Each	\$127.7800	\$638.90	Complete	Manufacturer: Wincore Model: 5400
JORDAN COMPANIES INC	5	Each	\$136.0000	\$680.00	Complete	Manufacturer: Silverline Model: 8500
COLUMBIA INDUSTRIES INC	5	Each	\$167.5000	\$837.50	Complete	Manufacturer: Columbia Industries Model: R770

[Top of the Page](#)

Line 002 51" thru 60"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	5	Each	\$127.7800	\$638.90	Complete	
JORDAN COMPANIES INC	5	Each	\$136.0000	\$680.00	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$169.5000	\$847.50	Complete	

[Top of the Page](#)

Line 003 61" thru 70"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	5	Each	\$127.7800	\$638.90	Complete	
JORDAN COMPANIES INC	5	Each	\$136.0000	\$680.00	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$181.3000	\$906.50	Complete	

[Top of the Page](#)

Line 004 71" thru 80"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	10	Each	\$127.7800	\$1,277.80	Complete	
JORDAN COMPANIES INC	10	Each	\$153.0000	\$1,530.00	Complete	
COLUMBIA INDUSTRIES INC	10	Each	\$208.6000	\$2,086.00	Complete	

[Top of the Page](#)

Line 005 81" thru 90"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	10	Each	\$127.7800	\$1,277.80	Complete	

JORDAN COMPANIES INC	10	Each	\$153.0000	\$1,530.00	Complete
COLUMBIA INDUSTRIES INC	10	Each	\$216.1000	\$2,161.00	Complete

[Top of the Page](#)**Line 006** 91" thru 100"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	10	Each	\$127.7800	\$1,277.80	Complete	
JORDAN COMPANIES INC	10	Each	\$166.0000	\$1,660.00	Complete	
COLUMBIA INDUSTRIES INC	10	Each	\$222.2000	\$2,222.00	Complete	

[Top of the Page](#)**Line 007** 101" thru 110"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	5	Each	\$175.3900	\$876.95	Complete	
JORDAN COMPANIES INC	5	Each	\$189.0000	\$945.00	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$235.3000	\$1,176.50	Complete	

[Top of the Page](#)**Line 008** 111" thru 120"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	5	Each	\$186.8000	\$934.00	Complete	
JORDAN COMPANIES INC	5	Each	\$215.0000	\$1,075.00	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$256.6500	\$1,283.25	Complete	

[Top of the Page](#)**Line 009** 121" thru 130"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	5	Each	\$198.4600	\$992.30	Complete	
JORDAN COMPANIES INC	5	Each	\$237.0000	\$1,185.00	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$267.3500	\$1,336.75	Complete	

[Top of the Page](#)**Line 010** Over 130" charge per additional UI (window price = window price quote for 121" thru 130" + UI's charge for over 130" window)

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
COLUMBIA INDUSTRIES INC	100	UNITED INCHES	\$1.5000	\$150.00	Complete	
JORDAN COMPANIES INC	100	UNITED INCHES	\$2.2500	\$225.00	Complete	
RICHARDS BUILDING SUPPLY CO	100	UNITED INCHES	\$2.3600	\$236.00	Complete	

[Top of the Page](#)**Line 011** Charge for installed three (3) foot mullion strip (with cap)

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	20	Each	\$2.4700	\$49.40	Complete	
COLUMBIA INDUSTRIES INC	20	Each	\$5.7000	\$114.00	Complete	
JORDAN COMPANIES INC	20	Each	\$25.0000	\$500.00	Complete	

[Top of the Page](#)**Line 012** Charge for installed six (6) foot mullion strip (with cap)

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
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RICHARDS BUILDING SUPPLY CO	5	Each	\$2.4700	\$12.35	Complete
COLUMBIA INDUSTRIES INC	5	Each	\$7.8000	\$39.00	Complete
JORDAN COMPANIES INC	5	Each	\$25.0000	\$125.00	Complete

Top of the Page

Line 013 Thermal break primary windows, horizontal rollers, as per the following size, united inches, inches of frame length + inches of frame width. Manufacturer \_\_\_\_\_ Model \_\_\_\_\_ 0" thru 50"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
JORDAN COMPANIES INC	5	Each	\$97.0000	\$485.00	Complete	Manufacturer: Silverline Model: 8700
COLUMBIA INDUSTRIES INC	5	Each	\$124.1500	\$620.75	Complete	Manufacturer: Columbia Industries Model: R780
RICHARDS BUILDING SUPPLY CO	5	Each	\$127.7800	\$638.90	Complete	Manufacturer: Wincore Model: 5400

Top of the Page

Line 014 51" thru 60"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
JORDAN COMPANIES INC	5	Each	\$97.0000	\$485.00	Complete	
RICHARDS BUILDING SUPPLY CO	5	Each	\$127.7800	\$638.90	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$131.1500	\$655.75	Complete	

Top of the Page

Line 015 61" thru 70"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
JORDAN COMPANIES INC	5	Each	\$126.0000	\$630.00	Complete	
RICHARDS BUILDING SUPPLY CO	5	Each	\$127.7800	\$638.90	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$154.0500	\$770.25	Complete	

Top of the Page

Line 016 71" thru 80"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	10	Each	\$127.7800	\$1,277.80	Complete	
JORDAN COMPANIES INC	10	Each	\$137.0000	\$1,370.00	Complete	
COLUMBIA INDUSTRIES INC	10	Each	\$169.1000	\$1,691.00	Complete	

Top of the Page

Line 017 81" thru 90"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	10	Each	\$127.7800	\$1,277.80	Complete	
JORDAN COMPANIES INC	10	Each	\$149.0000	\$1,490.00	Complete	
COLUMBIA INDUSTRIES INC	10	Each	\$182.3000	\$1,823.00	Complete	

Top of the Page

Line 018 91" thru 100"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	10	Each	\$127.7800	\$1,277.80	Complete	
JORDAN COMPANIES INC	10	Each	\$164.0000	\$1,640.00	Complete	
COLUMBIA INDUSTRIES INC	10	Each	\$195.5000	\$1,955.00	Complete	

Top of the Page

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
JORDAN COMPANIES INC	5	Each	\$186.0000	\$930.00	Complete	
RICHARDS BUILDING SUPPLY CO	5	Each	\$195.0400	\$975.20	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$226.5000	\$1,132.50	Complete	

Top of the Page

Line 020 111" thru 120"						
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	5	Each	\$206.4300	\$1,032.15	Complete	
JORDAN COMPANIES INC	5	Each	\$209.0000	\$1,045.00	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$248.4000	\$1,242.00	Complete	

Top of the Page

Line 021 121" thru 130"						
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	5	Each	\$219.5300	\$1,097.65	Complete	
JORDAN COMPANIES INC	5	Each	\$231.0000	\$1,155.00	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$269.7000	\$1,348.50	Complete	

Top of the Page

Line 022 Over 130" charge per additional UI (window price = window price quote for 121" thru 130" + UI's charge for over 130" window)						
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
COLUMBIA INDUSTRIES INC	100	UNITED INCHES	\$1.5000	\$150.00	Complete	
JORDAN COMPANIES INC	100	UNITED INCHES	\$2.2500	\$225.00	Complete	
RICHARDS BUILDING SUPPLY CO	100	UNITED INCHES	\$2.6800	\$268.00	Complete	

Top of the Page

Line 023 Charge for installed three (3) foot mullion strip (with cap)						
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	20	Each	\$2.4700	\$49.40	Complete	
COLUMBIA INDUSTRIES INC	20	Each	\$5.7000	\$114.00	Complete	
JORDAN COMPANIES INC	20	Each	\$25.0000	\$500.00	Complete	

Top of the Page

Line 024 Charge for installed six (6) foot mullion strip (with cap)						
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	5	Each	\$2.4700	\$12.35	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$7.8000	\$39.00	Complete	
JORDAN COMPANIES INC	5	Each	\$25.0000	\$125.00	Complete	

Top of the Page

Line 025 Thermal break primary windows - fixed picture windows with or without attached double hung windows or horizontal rollers (price = following fixed picture window price + previous double hung or horizontal roller price, if any):  
 Manufacturer \_\_\_\_\_ Model \_\_\_\_\_ 0" thru 50"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
COLUMBIA INDUSTRIES INC	5	Each	\$100.3500	\$501.75	Complete	Manufacturer: Columbia Industries Model: R1510

## EXHIBIT B

RICHARDS BUILDING SUPPLY CO	5	Each	\$104.4800	\$522.40	Complete	Manufacturer: Wincore Model: 5400
JORDAN COMPANIES INC	5	Each	\$136.0000	\$680.00	Complete	Manufacturer: Silverline Model: 4100
<u>Top of the Page</u>						
Line 026 51" thru 60"						
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	5	Each	\$104.4800	\$522.40	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$127.0500	\$635.25	Complete	
JORDAN COMPANIES INC	5	Each	\$161.0000	\$805.00	Complete	
<u>Top of the Page</u>						
Line 027 61" thru 70"						
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	5	Each	\$104.4800	\$522.40	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$142.3500	\$711.75	Complete	
JORDAN COMPANIES INC	5	Each	\$187.0000	\$935.00	Complete	
<u>Top of the Page</u>						
Line 028 71" thru 80"						
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	10	Each	\$113.3400	\$1,133.40	Complete	
COLUMBIA INDUSTRIES INC	10	Each	\$148.1500	\$1,481.50	Complete	
JORDAN COMPANIES INC	10	Each	\$212.0000	\$2,120.00	Complete	
<u>Top of the Page</u>						
Line 029 81" thru 90"						
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	10	Each	\$123.4800	\$1,234.80	Complete	
COLUMBIA INDUSTRIES INC	10	Each	\$157.6000	\$1,576.00	Complete	
JORDAN COMPANIES INC	10	Each	\$238.0000	\$2,380.00	Complete	
<u>Top of the Page</u>						
Line 030 91" thru 100"						
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	10	Each	\$142.4700	\$1,424.70	Complete	
COLUMBIA INDUSTRIES INC	10	Each	\$175.5000	\$1,755.00	Complete	
JORDAN COMPANIES INC	10	Each	\$264.0000	\$2,640.00	Complete	
<u>Top of the Page</u>						
Line 031 101" thru 110"						
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	5	Each	\$165.2600	\$826.30	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$215.5500	\$1,077.75	Complete	
JORDAN COMPANIES INC	5	Each	\$289.0000	\$1,445.00	Complete	
<u>Top of the Page</u>						
Line 032 111" thru 120"						
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments

## EXHIBIT B

RICHARDS BUILDING SUPPLY CO	5	Each	\$176.6700	\$883.35	Complete
COLUMBIA INDUSTRIES INC	5	Each	\$246.2000	\$1,231.00	Complete
JORDAN COMPANIES INC	5	Each	\$315.0000	\$1,575.00	Complete

[Top of the Page](#)

## Line 033 121" thru 130"

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	5	Each	\$189.3300	\$946.65	Complete	
COLUMBIA INDUSTRIES INC	5	Each	\$256.7000	\$1,283.50	Complete	
JORDAN COMPANIES INC	5	Each	\$340.0000	\$1,700.00	Complete	

[Top of the Page](#)

## Line 034 Over 130" charge per additional UI (window price + window price quoted for 121" thru 130" + UI's charge for over 130" window)

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
COLUMBIA INDUSTRIES INC	100	UNITED INCHES	\$1.5000	\$150.00	Complete	
JORDAN COMPANIES INC	100	UNITED INCHES	\$2.2500	\$225.00	Complete	
RICHARDS BUILDING SUPPLY CO	100	UNITED INCHES	\$2.2500	\$225.00	Complete	

[Top of the Page](#)

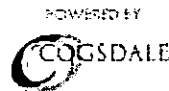
## Line 035 Charge for installed three (3) foot mullion strip (with cap)

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	30	Each	\$2.4700	\$74.10	Complete	
COLUMBIA INDUSTRIES INC	30	Each	\$5.7000	\$171.00	Complete	
JORDAN COMPANIES INC	30	Each	\$25.0000	\$750.00	Complete	

[Top of the Page](#)

## Line 036 Charge for Installed six (6) foot mullion strip (with cap)

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RICHARDS BUILDING SUPPLY CO	30	Each	\$2.4700	\$74.10	Complete	
COLUMBIA INDUSTRIES INC	30	Each	\$7.8000	\$234.00	Complete	
JORDAN COMPANIES INC	30	Each	\$25.0000	\$750.00	Complete	

[Top of the Page](#)

**Purchases Utilizing Sole Source of Supply  
Ordinance No. 35-856 Section 2. (b)**

**SUBJECT:** Siemens Phone System

1 each – Siemens Phone System, expansion of existing phone system at Century II with a HiPath 4000 V5 IPAP @ \$81,622, Siemens ACD OpenScape Contact Center @ \$72,730,

This is a sole source of supply when material to be purchased is available from a sole distributor.

Department: Information Technology/Information Services

Vendor	Reference Authority	Cost
Siemens	Ordinance No. 35-856 Section 2 (b)	\$154,353.

**PRELIMINARY ESTIMATES  
FOR CITY COUNCIL APRIL 16, 2013**

- a. Storm Water Sewer Improvements to serve North Iva & 27th Street to serve Brooks Buckner Addition (east of Hillside Ave and south of East Fork Chisholm Creek) (468-84709/133117/636260/660813/133117/772077/869002) Local traffic shall be maintained with minimal street closures not to exceed 48 hours. (District I) - \$671,434.00
- b. 2013 Sanitary Sewer Rehabilitation Phase A (north of 31st Street South, east of Meridian) (468-84869/620634/663009) Traffic to be maintained during construction using flagpersons and barricades. (District I,II,III,IV,VI) - \$326,000.00
- c. 2013 Sanitary Sewer Reconstruction Phase 3 (north of MacArthur, east of Meridian) (468-84870/620635/663010) Traffic to be maintained during construction using flagpersons and barricades. (District III,IV) - \$270,000.00

City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** Petition for Water Distribution System to Serve Newmarket V Addition  
(District V)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

-----  
**Recommendation:** Approve the revised petition and amending resolution.

**Background:** On August 5, 2008, the City Council approved a petition for water distribution systems to serve Newmarket V Addition. The developer is expanding the scope of the project and has submitted a new petition with an increased budget. The signature on the petition represents 100% of the improvement district.

**Analysis:** The project will provide water distribution systems to serve a new commercial development located south of 29<sup>th</sup> Street North, west of Maize Road.

**Financial Considerations:** The total of the existing petition is \$73,500. The total of the revised petition is \$199,000. The funding source is special assessments.

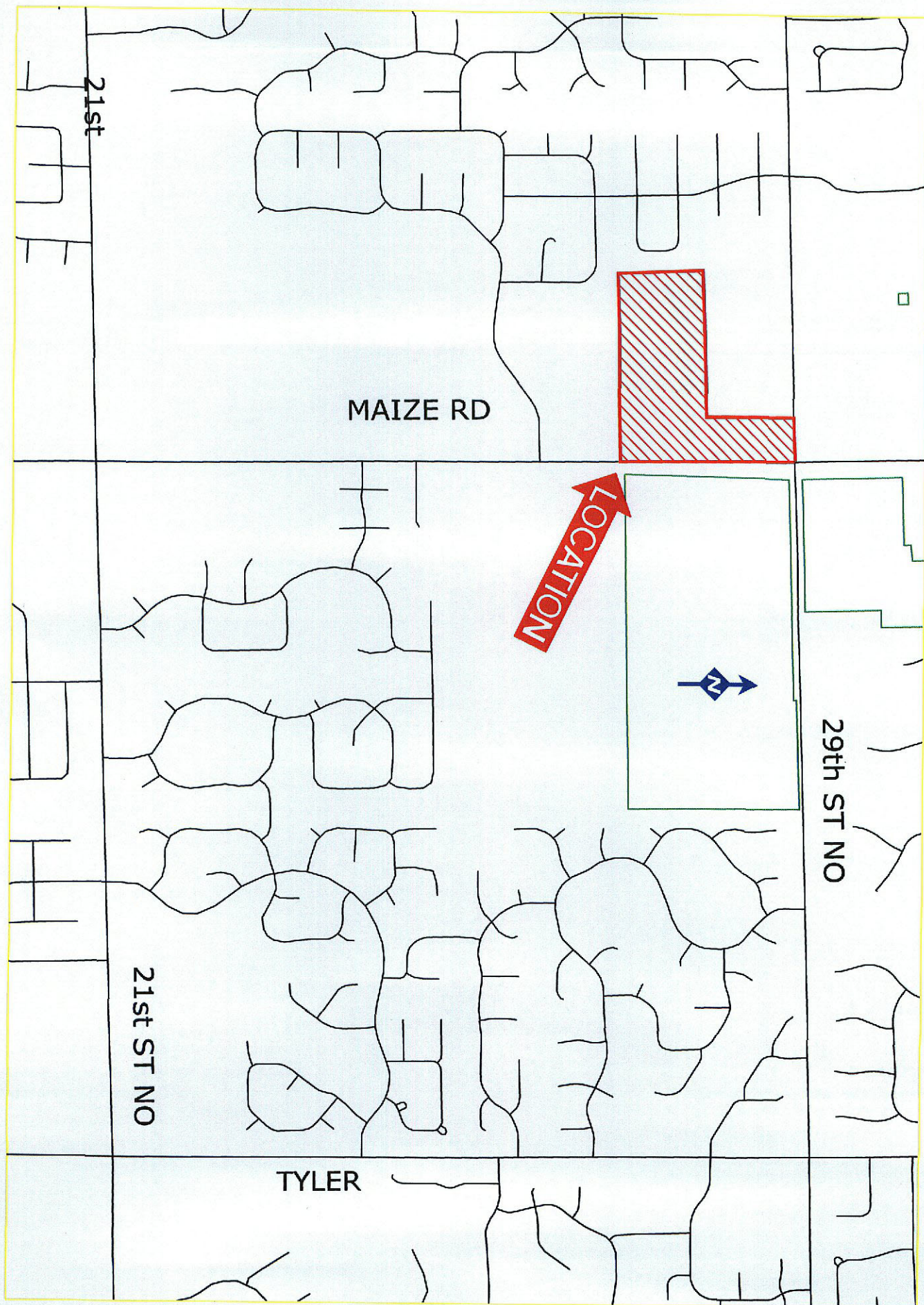
**Legal Considerations:** The Law Department has approved the petition and amending resolution as to form.

**Recommendations/Actions:** It is recommended that the City Council approve the petition, adopt the amending resolution, and authorize the necessary signatures.

**Attachments:** Map, CIP Sheet, petition, and amending resolution.

<b>CAPITAL IMPROVEMENT</b>  <b>PROJECT AUTHORIZATION</b>  <b>CITY OF WICHITA</b>				USE: To Initiate Project <input type="text"/> To Revise Project <input checked="" type="text"/>		1. Prepare in triplicate 2. Send original & 2 copies to budget. 3. City Manager to sign all copies. 4. File original w/ initiating resolution in City Clerk. 5. Return 2nd copy to initiating department. 6. Send 3rd copy to Controller.																
1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location																			
Public Works & Utilities	Eng & Arch	3/21/2013	Water Distribution System in Newmarket V Addition																			
5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)		8. Approved by WCC Date																		
NI		2013																				
9. Estimated Start Date	10. Estimated Completion Date		11. Project Revised																			
As Required	As Required																					
12. Project Cost Estimate				12A.																		
ITEM	GO	SA	OTHER*	TOTAL																		
Right of Way					<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"></td> <td style="width: 25%; text-align: center;">Yes</td> <td style="width: 25%; text-align: center;">No</td> </tr> <tr> <td>Platting Required</td> <td style="border: 1px solid black; height: 20px;"></td> <td style="border: 1px solid black; height: 20px;"></td> </tr> <tr> <td>Lot Split</td> <td style="border: 1px solid black; height: 20px;"></td> <td style="border: 1px solid black; height: 20px;"></td> </tr> <tr> <td>Petition</td> <td style="border: 1px solid black; height: 20px; text-align: center;">X</td> <td style="border: 1px solid black; height: 20px;"></td> </tr> <tr> <td>Ordered by WCC</td> <td style="border: 1px solid black; height: 20px;"></td> <td style="border: 1px solid black; height: 20px;"></td> </tr> </table>				Yes	No	Platting Required			Lot Split			Petition	X		Ordered by WCC		
	Yes	No																				
Platting Required																						
Lot Split																						
Petition	X																					
Ordered by WCC																						
Paving, grading & const.																						
Bridge																						
Drainage																						
Sanitary Sewer																						
Sidewalk																						
Water		\$199,000.00		\$199,000	Remarks:  100% Petition  *Water Utility  448-90331																	
Traffic Signals & Turn Lanes																						
<b>Totals</b>		\$199,000.00		\$199,000																		
<b>Total CIP Amount Budgeted</b>																						
<b>Total Prelim. Estimate</b>																						
13. Recommendation: Approve the petition and adopt the resolution.																						
Division Head		Department Head		Budget Officer		City Manager																
				Date		Date																





**WATER DISTRIBUTION SYSTEM PETITION**

(03/06/13)

To the Mayor and City Council  
Wichita, Kansas

RECEIVED  
MAR 15 '13  
CITY CLERK OFFICE

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

NEWMARKET V ADDITION

Lot 1, Block 1

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended as follows:

- (a) That there be constructed a water distribution system, including necessary water mains, pipes, valves, hydrants, meters and appurtenances to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
- (b) That the estimated and probable cost of the foregoing improvements being One Hundred Ninety-Nine Thousand Dollars (\$199,000.00), with 100% percent payable by the improvement district. Said estimated cost as above setforth is hereby increased at the pro rata of 1 percent per month from and after March 7, 2013.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (e) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis:



That said Lot 1, Block 1, NewMarket V Addition shall pay 100% of the total cost of the improvement.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

2. It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
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NEWMARKET V ADDITION

NEWMARKET V, L.L.C.

BLOCK 1  
Lot 1

By:  3/7/13  
Jerry Jones, Vice President

## AFFIDAVIT

The undersigned, being duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be the best of his knowledge and belief, being signed either in the presence of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

Pat Hultman  
Name

303 S. Topeka, Wichita, KS 67202  
Address

(316) 262-2691  
Telephone No.

Sworn to and subscribed before me this 15 day of March,  
2013.



Karen Sweet, Clerk  
Deputy City Clerk

132019

First Published in the Wichita Eagle on April 19, 2013

**RESOLUTION NO. 13-063**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90331 (SOUTH OF 29TH ST. NORTH, WEST OF MAIZE)** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90331 (SOUTH OF 29TH ST. NORTH, WEST OF MAIZE)** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution **No. 08-410** adopted on **August 5, 2008** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct **Water Distribution System Number 448-90331 (south of 29th St. North, west of Maize)**.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be **One Hundred Ninety-Nine Thousand Dollars (\$199,000)** exclusive of the cost of interest on borrowed money, with **100** percent of the total cost payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **March 7, 2013**, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**NEWMARKET V ADDITION**

Lot 1, Block 1

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lot 1, Block 1, NEWMARKET V ADDITION, shall pay 100% of the total cost of the improvement.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 16<sup>th</sup> day of April, 2013

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

GARY E. REBENSTORF,  
DIRECTOR OF LAW

City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Victory in the Valley East Meets West Walk/Run  
(District VI)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

---

**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure the event promoter Diana Thomi, Victory in the Valley is coordinating the Victory in the Valley East Meets West Walk/ Run with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Victory in the Valley Walk/ Run May 18, 2013 7:30 am – 9:30 am**

- Second Street, Waco Street to McLean Boulevard, west bound lanes.

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with special events.

**Legal Consideration:** There are no legal considerations.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works Utilities Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.



City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** Agreement for 2012 ASR Accounting Model (All Districts)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

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**Recommendations:** Approve agreement for Professional Engineering Services with Burns and McDonnell.

**Background:** On August 8, 2005, the Division of Water Resources approved the water appropriations for the Equus Beds Aquifer Storage and Recovery (ASR) Project. Those appropriations included a number of conditions, including an Annual Accounting Model Report and an Annual Report.

**Analysis:** The Equus Beds ASR project is the first of its kind in Kansas, and one of the conditions placed on the project by the Chief Engineer of the Division of Water Resources (DWR) was the use of a hydrologic computer model to determine the amount of recharge credits available for appropriation. This model was developed by Burns and McDonnell Engineering to show all of the water uses in the project area and account for all of the components necessary for DWR to allocate water appropriations for the ASR project. The DWR requires that the model be run and a report submitted by June 1 of each calendar year. This year will be the seventh year that the model has been run and reports submitted. At this time Burns and McDonnell is the only resource available to perform this task. Later in 2013, a new United States Geological Survey model of the Equus Beds Wellfield will be available and a Request for Proposals will be initiated for future reports.

**Financial Considerations:** The cost to run the model and prepare the reports will not exceed \$61,245. Funding is available in the Production and Pumping Operating Budget. The funding source is the Water Utility.

**Legal Considerations:** The Law Department has reviewed and approved the agreement as to form.

**Recommendation/Actions:** It is recommended that the City Council approve the agreement and authorize the necessary signatures.

**Attachments:** Agreement with Burns and McDonnell Engineering.

AGREEMENT  
for  
PROFESSIONAL SERVICES  
between  
THE CITY OF WICHITA, KANSAS  
and  
BURNS & MCDONNELL  
for

2012 AQUIFER STORAGE & RECOVERY ACCOUNTING MODEL  
& ANNUAL REPORT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BURNS & MCDONNELL, party of the second part, hereinafter called the "ENGINEER".

WHEREAS, the CITY intends to assess the demand for water and alternatives to meet this demand; and

WHEREAS, the major components of this PROJECT will include, but not be limited to:

1. Use the accounting groundwater flow model as used in previous years to simulate the flow in the aquifer in the vicinity of the Wichita well field;
2. Complete the accounting credit analysis to determine the recharge credits available to the City; and,
3. Generate the annual report of ASR activities for submittal to the appropriate regulatory agencies.

WHEREAS, the work will be conducted under the direction of the City Engineer or his designated representative, with milestone reviews; and,

WHEREAS, a detailed SCOPE OF SERVICES is attached as Exhibit A.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for modeling and reporting of 2012 ASR operations and to complete PROJECT tasks outlined herein and in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined herein and in the SCOPE OF SERVICES (Exhibit A).
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all writings, calculations, sketches, drawings and models such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY, or its authorized representative. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- F. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- G. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- H. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans, writings, models, and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, writings, models, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- I. The Study Report, model(s), presentation materials, Water Master Plan chapters and any other work produced under this Agreement which may be copyrighted shall become the property of the CITY upon completion, and there shall be no restriction or limitation on the further use of said works by the CITY. The parties hereto intend the

CITY to have copyright ownership in the works produced hereunder, as "works made for hire" under the provisions of United States copyright laws. In the event any of the works is ever determined not to constitute or qualify as a "work made for hire," ENGINEER agrees to grant the CITY a perpetual, royalty-free and irrevocable license to reproduce, publish and/or otherwise use and authorize others to use such works.

- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. ENGINEER shall provide CITY thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials marked or otherwise identified by CITY and so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the Engineer for the performance of the professional services required shall be time related charges for labor, per attached rate table shown in Exhibit "C" and direct expenses of which the total shall not exceed \$61,245 and may be less than the estimated amount.
- B. During the progress of work covered by this agreement, partial payments may be made to the ENGINEER monthly. The progress billings shall be supported by documentation acceptable to the City Engineer which shall include a project Gantt chart or other suitable progress chart indicating progress on the PROJECT and a record of the time period to complete the work, the time period elapsed, and the time period that remains to complete the work.
- C. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional services not covered by the scope of this agreement.
  - 3. Administration related to this PROJECT
  - 4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that

CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval, or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Carl Brewer, Mayor

SEAL:

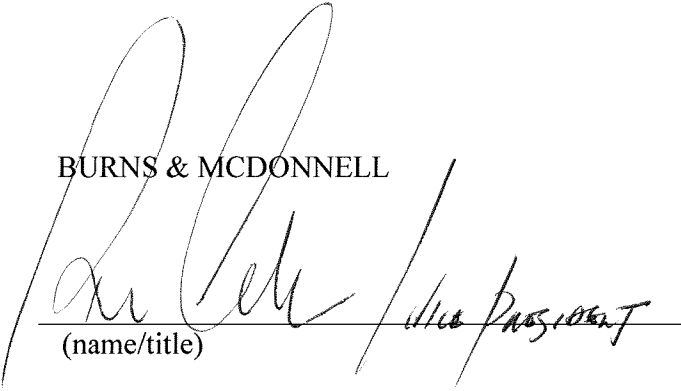
ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf, Director of Law

BURNS & MCDONNELL

  
\_\_\_\_\_  
(name/title)

ATTEST:

Exhibit A

2012 Accounting Model and Annual Report  
Hours & Cost Estimate  
City of Wichita, Kansas

Activity		Total Labor-Hours										Total Costs				
Task No.	Description	17 Prin II	16 Prin I	15 Assoc II	14 Assoc I	13 Senior II	12 Senior I	11 Staff II	10 Staff I	9 Asst. III	8 Asst. II	7 Asst. I	Hours Subtotal	B&McD Labor Cost	Distributed Expense Cost	Total Task Cost
2012 Accounting Model & Annual Report																
1	Update Accounting Model with 2012 Data															
	a Evaluate, manipulate & import 2012 DWR pumping data	-	-	-	16	-	-	-	-	-	-	-	16	\$ 3,072	\$ 159	\$ 3,231
	b Evaluate, manipulate & import 2012 City of Wichita pumping & recharge data	-	-	-	2	-	-	-	-	-	-	-	2	\$ 384	\$ 20	\$ 404
	c Evaluate, manipulate & import 2012 USGS streamflow data	-	-	-	2	-	-	-	-	-	-	-	2	\$ 384	\$ 20	\$ 404
	d Evaluate, manipulate & import 2012 precipitation data	-	-	-	2	-	-	-	-	-	-	-	2	\$ 384	\$ 40	\$ 424
2	Calibrate 2012 Accounting Model															
	a Evaluate, manipulate & import 2012 Index Well data for calibration	-	-	-	4	-	-	-	-	-	-	-	4	\$ 768	\$ 40	\$ 808
	b Complete complete multiple model runs to calibrate to 2012 data	-	-	-	20	-	-	-	-	-	-	-	20	\$ 3,840	\$ 239	\$ 4,079
3	Run 2012 Accounting Model															
	a Set up, run, export index cell data, & evaluate model with 2012 recharge	-	-	-	8	-	-	-	-	-	-	-	8	\$ 1,536	\$ 80	\$ 1,616
	b Set up, run, export index cell data, & evaluate model without 2012 recharge	-	-	-	8	-	-	-	-	-	-	-	8	\$ 1,536	\$ 80	\$ 1,616
4	Analyze model data															
	a Import & calculate water budget from model runs	-	-	-	12	-	-	-	-	-	-	-	12	\$ 2,304	\$ 119	\$ 2,423
	b Complete & evaluate index Cell inflow & outflow calculations	-	-	-	24	-	-	-	-	-	-	-	24	\$ 4,608	\$ 239	\$ 4,847
	c Translate water budget data to index Cell spreadsheet	-	-	-	16	-	-	-	-	-	-	-	16	\$ 3,072	\$ 159	\$ 3,231
	d Evaluate index cell flows for recharge credit allowances	-	-	2	8	-	1	8	10	1,942	-	-	10	\$ 1,942	\$ 100	\$ 2,042
	e Calculate recharge credits & generate spreadsheet results	-	-	2	8	-	-	-	-	-	-	-	10	\$ 1,942	\$ 100	\$ 2,042
5	Prepare 2012 Accounting Model & Annual Report for City review															
	a Generate 2012 accounting and annual figures	-	-	-	24	-	-	-	-	12	-	-	36	\$ 6,132	\$ 358	\$ 6,490
	b Generate 2012 accounting and annual report text	-	-	-	24	-	-	-	-	-	-	4	28	\$ 4,936	\$ 279	\$ 5,215
	c Collate supporting appendix data	-	-	-	16	-	-	-	-	-	-	4	20	\$ 3,400	\$ 199	\$ 3,599
	d Publish and submit 8 copies of Final 2012 Accounting Report	-	-	4	16	-	-	-	-	-	-	-	24	\$ 4,212	\$ 1,915	\$ 6,127
6	Meetings to review model updates and results															
	a Meet with DWR, City, GMD	-	-	4	8	-	-	-	-	-	-	-	12	\$ 2,348	\$ 592	\$ 2,940
7	Project Management and QA/QC															
		-	-	12	30	-	-	-	-	8	-	-	50	\$ 9,212	\$ 498	\$ 9,710
	Total - 2012 Accounting Model Report	0	0	24	248	0	0	0	0	20	0	12	304	\$ 56,012	\$ 5,233	\$ 61,245
	Total - Maximum Not-To-Exceed	0	0	24	248	0	0	0	0	20	0	12	304	\$ 56,012	\$ 5,233	\$ 61,245

**Schedule:**

Report is due to the Department of Water Resources by August 1, 2013.  
Project is complete upon receipt of letter of approval from the Department of Water Resources – approximately March 2014.



**EXHIBIT B**

**REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT  
OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS  
STATEMENT FOR CONTRACTS OR AGREEMENTS**

CITY OF WICHITA, KANSAS  
2012 ACCOUNTING MODEL AND ANNUAL REPORT

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
  4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

## Schedule of Hourly Professional Service Billing Rates

### Exhibit C

<u>Position Classification</u>	<u>Classification Level</u>	<u>Hourly Billing Rate</u>
General Office*	5	\$60.00
Technician*	6	\$69.00
Assistant*	7	\$82.00
	8	\$115.00
	9	\$127.00
Staff*	10	\$139.00
	11	\$156.00
Senior	12	\$167.00
	13	\$179.00
Associate	14	\$192.00
	15	\$203.00
	16	\$208.00
	17	\$214.00

#### NOTES:

- Position classifications listed above refer to the firm's internal classification system for employee compensation. For example, "Associate", "Senior", etc., refer to such positions as "Associate Engineer", "Senior Architect", etc.
- For any nonexempt personnel in positions marked with an asterisk (\*), overtime will be billed at 1.5 times the hourly labor billing rates shown.
- Project time spent by corporate officers will be billed at Level 17 rate plus 25 percent.
- For outside expenses incurred by Burns & McDonnell, such as authorized travel and subsistence, and for services rendered by others such as subcontractors, the client shall pay the cost to Burns & McDonnell plus 10%.
- A technology charge of \$9.95 per labor hour will be billed for normal computer usage, computer aided drafting (CAD), long distance telephone, fax, photocopy and mail services. Specialty items (such as web and video conferencing) are not included in the technology charge.
- Monthly invoices will be submitted for payment covering services and expenses during the preceding month. Invoices are due upon receipt. ~~A late payment charge of 1.5% per month will be added to all amounts not paid within 30 days of the invoice date.~~
- The services of contract/agency personnel shall be billed to Owner according to the rate sheet as if such contract/agency personnel is a direct employee of Burns & McDonnell.
- The rates shown above are effective for services through December 31, 2013, and are subject to revision thereafter.

**City of Wichita  
City Council Meeting  
April 16, 2013**

**TO:** Mayor and City Council

**SUBJECT:** Change Order No. 9 - 13th Street Improvements, Hydraulic to Oliver (District I)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

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**Recommendation:** Approve Change Order No. 9.

**Background:** The 2011-2020 Capital Improvement Program (CIP) includes funding to reconstruct 13th Street, between Hydraulic and Oliver. On February 7, 2012, the City Council approved a final budget of \$17,560,000 for the project. On June 15, 2012, the City Council approved a contract with Cornejo & Sons, LLC for \$11,764,363, and construction began in August 2012.

Change Order No. 1, in the amount of \$36,812, was approved by the City Council on November 6, 2012, and provided a new underdrain system at 13<sup>th</sup>/Lorraine. Change Order No. 2, in the amount of \$8,495, was processed on October 2, 2012, and provided new stormwater sewer inlets at 13<sup>th</sup>/Estelle and 13<sup>th</sup>/Volutia. Change Order No. 3, in the amount of \$5,300, was processed on October 3, 2012, and provided relocation of a water main. Change Order No. 4, in the amount of \$13,155, was approved by the City Council on November 20, 2012, and replaced traffic signal wiring and electrical conduits at 13<sup>th</sup>/Grove. Change Order No. 5, in the amount of \$2,970, was processed on October 3, 2012, and provided realignment of a section of curb near 13<sup>th</sup>/Minnesota. Change Order No. 6, in the amount of \$53,543, was approved by the City Council on February 26, 2013, and provided signal upgrades and grading improvements to bring the intersections of 13<sup>th</sup>/Grove and 13<sup>th</sup>/Hillside into compliance with Americans with Disabilities Act standards. Change Order No. 7, in the amount of \$9,792, was processed on January 31, 2013, and provided relocation of an electrical service feed at Hillside. Change Order No. 8, in the amount of \$1,231, was processed on March 22, 2013, and provided improved alignment of a storm sewer box on Crestway.

**Analysis:** The proposed sanitary sewer on the north side of 13<sup>th</sup> Street, between Vesta and Belmont, shall be relocated to the south side of the road due to the proximity of the Westar high voltage power line. The final location of the power line was unknown at the time of design completion. The depth of the proposed sewer (25 feet or more, on average) creates an unsafe working condition for installation of the new pipe and manholes, especially adjacent to power poles. In addition, future maintenance would be equally as difficult and unsafe, and the stability of the soil next to the poles would be compromised. Moving the line to the south side of 13<sup>th</sup> Street will add four street crossings and several additional manholes. A change order has been prepared to authorize the additional work.

**Financial Considerations:** The cost of the additional work is \$23,690. The original contract amount is \$11,764,363. This change order plus previous change orders represents 1.43% of the original contract amount. Funding is available within the existing project budget.

**Legal Considerations:** The Law Department has approved the change order as to form. The change order amount is within the 25% of contract cost limit set by City Council policy.

**Recommendation/Action:** It is recommended that the City Council approve Change Order No. 9 and authorize the necessary signatures.

**Attachments:** Change Order No. 9.



April 2, 2013

PUBLIC WORKS-ENGINEERING

**CHANGE ORDER**

**To: Cornejo & Sons, LLC**  
**Change Order No.: 9**  
**Purchase Order No.: 240432**  
**CHARGE TO OCA No.: 624100**

**Project: 13th Street, Hydraulic to Oliver**  
**Project No.: 472-84320**  
**OCA No.: 706933/635803/624100**  
**PPN: 205399/752025/652018**

**Please perform the following extra work at a cost not to exceed \$23,690.00**

**Work for this Change Order cannot be completed until approved by all. Contractor should expect approximately 3 weeks for approval.**

**Additional Work:** Relocate the sanitary sewer between Vesta and Belmont to prevent safety conflicts with the overhead Westar transmission power lines. The relocation will require one additional standard and one additional outside drop manhole, 246 lineal feet of 8" sanitary sewer (SS) pipe, and exchanging 44 lineal feet of 10" SS pipe for the planned 12" SS pipe.

**Reason for Additional Work:** The major east/west overhead Westar transmission lines are located within 7 feet of the proposed sanitary sewer. After meeting with the contractor and Westar representatives on site, it was agreed that installing the sanitary sewer within seven feet of the power poles, at a depth in excess of 25 feet, would jeopardize the safety of workers and the electrical transmission lines during and after construction. There is a real and serious concern about the power poles sliding into the trench during construction and injuring workers. There is also the possibility after construction the poles could lean towards or even fall over into the street due to weakened stability of the soil. Therefore, it is proposed to relocate the sewer to the south side of 13<sup>th</sup> Street.

#	Bid Item	Negot'd/Bid	Qty	Unit Price	Extension
152	Pipe, SS 8"	Bid	246 lf	\$75.00	\$18,450.00
153	Pipe, SS 10"	Bid	44 lf	\$110.00	\$4,840.00
154	Pipe, SS 12"	Bid	(44) lf	\$150.00	(\$6,600.00)
157	MH, Standard SS (4')	Bid	1 ea	\$3,500.00	\$3,500.00
159	MH, Outside Drop SS (4')	Bid	1 ea	\$3,500.00	\$3,500.00
	Delay cost	Negot'd	1 LS	\$0.00	\$0.00
				<b>Total =</b>	<b>\$23,690.00</b>

CIP Budget Amount:	\$15,210,000.00 (706933)	Original Contract Amt.:
	\$11,764,362.68	
	\$1,250,000 (635803)	
	<b>\$1,100,000.00 (624100)</b>	
Consultant: Poe & Associates		Current CO Amt.: \$23,690.00
<b>Total Exp. &amp; Encum. To Date:</b>	<b>\$968,433.37 (624100)</b>	<b>Amt. of Previous CO's:</b> \$144,615.10
<b>CO Amount:</b>	<b>\$23,690.00 (624100)</b>	<b>Total of All CO's:</b> \$168,305.10
<b>Unencum. Bal. After CO:</b>	<b>\$107,876.63 (624100)</b>	<b>% of Orig. Contract / 25% Max.:</b> 1.43%

**Recommended By:** James Wagner, P.E.

**Approved:**

\_\_\_\_\_  
 Greg Baalman, P.E.  
 Construction Engineer

Date

\_\_\_\_\_  
 Gary Janzen, P.E.  
 City Engineer

Date

**Approved:**

**Approved:**

\_\_\_\_\_  
 Contractor

Date

\_\_\_\_\_  
 Alan King  
 Director of Public Works & Utilities

Date

**Approved as to Form:**

**By Order of the City Council:**

\_\_\_\_\_  
 Gary Rebenstorf  
 Director of Law

Date

\_\_\_\_\_  
 Carl Brewer  
 Mayor

Date

**Attest:** \_\_\_\_\_  
 City Clerk

**CITY OF WICHITA**  
**City Council Meeting**  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** Partial Acquisition of 10001 East Kellogg for the Improvement of the Kellogg Avenue (US Highway 54) from Cypress to Chateau (District II)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

---

**Recommendation:** Approve the acquisition.

**Background:** On February 8, 2011, the City Council approved the design for the improvement of Kellogg Avenue (Highway 54) from Cypress to Chateau. The project calls for the improvement of Kellogg to a six lane, limited access highway, with one way frontage roads on each side of the highway together with interchanges at the intersections of Webb Road and the Kansas Turnpike (Interstate 35). The project will require the acquisition of all or part of approximately 32 parcels. The properties consist of a mix of retail and commercial uses. The property located at 10001 East Kellogg is developed with a retail building however; the improvements are removed from the project. The project requires road right-of-way totaling 9,806 square feet and a temporary easement during construction at 17,601 square feet. These were previously acquired from the landowner. There is also an outdoor advertising structure and easement in the acquisition area. The project impacts 1,006 square feet of the easement and requires the sign to be relocated away from the new right of way.

**Analysis:** The outdoor advertising company has agreed to accept \$93,000 for the easement and sign relocation. This consists of \$43,000 to acquire additional easement from the property owner to allow the sign to be relocated and \$50,000 to physically relocate the sign.

**Financial Considerations:** A budget of \$94,000 is requested. This includes \$43,000 for the acquisition, \$50,000 for the relocation of the billboard, and \$1,000 for the closing costs and other administrative costs. The funding source is Local Sales Tax (LST) and State and Federal grant funds administered by the Kansas Department of Transportation.

**Legal Considerations:** The Law Department has approved the real estate agreement as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) approve the Budget; 2) approve the Real Estate Purchase Agreement; and 3) authorize the necessary signatures.

**Attachments:** Aerial map, tract map, and real estate purchase agreement.

## REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013 by and between Clear Channel Outdoor, Inc., a Delaware corporation, party of the First Part, hereinafter referred to as "Seller," whether one or more, and the City of Wichita, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

**WITNESSETH:** That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to release, sell and convey to the Buyer by a good and sufficient quit claim deed Seller's Sign Easement in the following described real property, situated in Sedgwick County, Kansas, to-wit:  
A portion of the easement area granted to Seller as recorded with the Sedgwick County Register of Deeds at 2887-9191 more particularly described as commencing at the N.W. corner of the E ½ of the NW ¼ of Section 28, Township 27-S, Range 2 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, thence south along the west line of the E ½ of said NW ¼, 81.9 feet to the south right-of-way line of U.S. Highway 54 as condemned in Case No. A-54089; thence east along said highway right-of-way line, 495 feet; thence south, parallel with the west line of the E ½ of said NW ¼, 128 feet to the point of beginning; thence continuing south, parallel with the west line of the E ½ of the NW ¼, 50.30 feet; thence west parallel with the south line of said highway right-of-way line, 20 feet, thence north, parallel with the west line of the E ½ of said NW ¼ 50.30 feet; thence east, parallel with the south line of said highway right-of-way, 20 feet to the place of beginning
2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above-described real property, the sum of Forty-three Thousand Dollars and Zero Cents (\$43,000.00) in the manner following to-wit: cash at closing
3. A title insurance company's commitment to insure to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is may be required. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid by Buyer.
4. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.
5. It is further agreed by and between the parties hereto that all real property taxes and specials, if any, shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.
6. The Seller further agrees to convey the above-described premises and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.
7. Seller shall place no encumbrances on the property during the period from execution of this contract to closing.



8. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before April 30, 2013.
9. Possession to be given to Buyer at closing
10. Closing costs shall be paid by Buyer.
11. In addition to the purchase price to be paid for the property as set out above, Buyer shall pay Seller, at closing, the amount of Fifty Thousand Dollars (\$50,000.00) in full satisfaction of all claims that Seller may assert pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, 42 U.S.C.A. 4601, et. Seq.
12. Seller shall be responsible for the relocation of the outdoor advertising sign currently located on the property and removal of said sign, poles, and ancillary items. Said removal shall occur no later than six months after the transfer of the described property. Seller shall be responsible for carrying such insurance as is reasonable on the improvements up until the date of removal.

**WITNESS OUR HANDS AND SEALS** the day and year first above written.

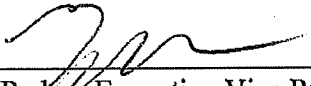
**BUYER**

By Direction of the City Council

\_\_\_\_\_  
Carl Brewer, Mayor

**SELLER**

Clear Channel Outdoor, Inc.

  
\_\_\_\_\_  
Bryan Parker, Executive Vice President

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

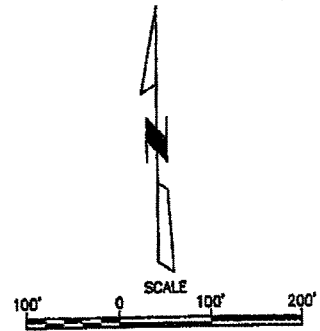
**APPROVED AS TO FORM:**

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

# EXHIBIT

## RIGHT OF WAY ACQUISITION

Tract # 39  
C-21727-56C



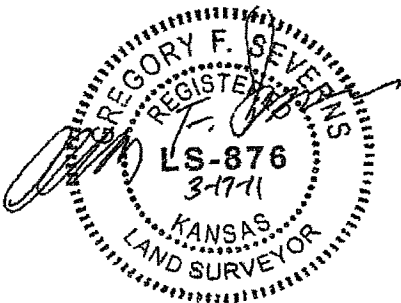
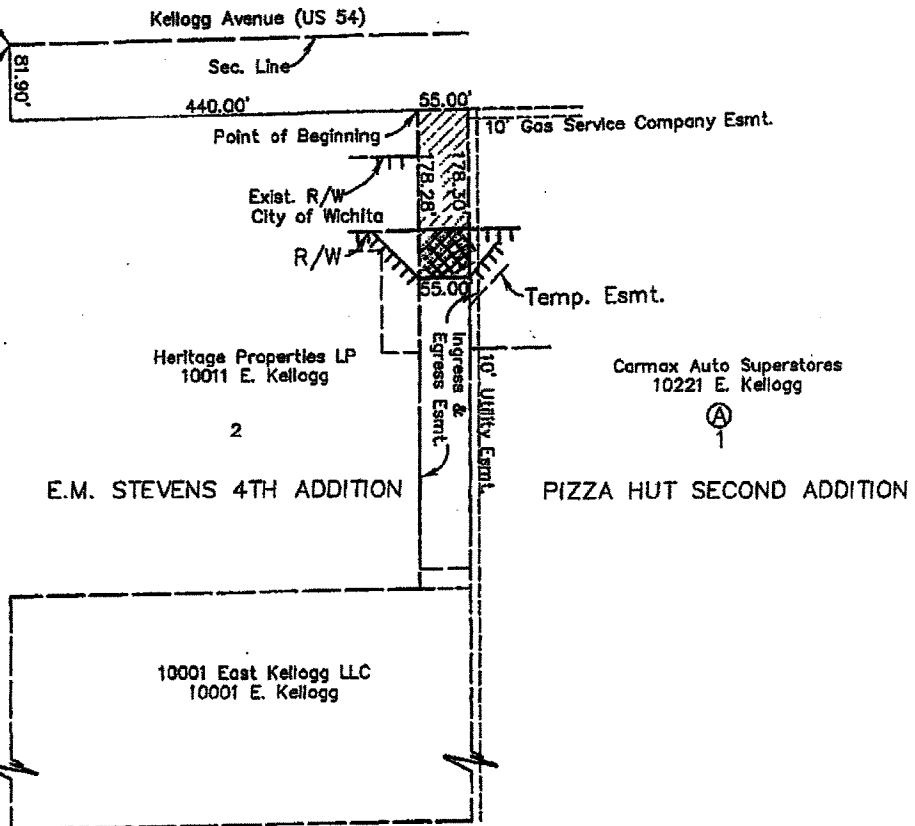
### LEGAL DESCRIPTION:

A tract of land in the East Half of the Northwest Quarter of Section 28, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas described as follows: Commencing at the northwest corner of the East Half of said Northwest Quarter; thence south along the west line of the East Half of said Northwest Quarter, 81.90 feet to the south right-of-way line of U.S. Highway 54 as condemned in Case No. A-54089; thence east along said highway right-of-way line, 440.00 feet for a point of beginning; thence continuing east along said highway right-of-way line, 55.00 feet; thence south parallel with the west line of the East Half of said Northwest Quarter, 178.30 feet; thence west, 55.00 feet to a point 440.00 feet east of the west line of the East Half of said Northwest Quarter as measured parallel with said south highway right-of-way line and 178.28 feet south of the point of beginning; thence north parallel with the west line of the East Half of said Northwest Quarter, 178.28 feet to the point of beginning.

Containing 9806.4 Sq. Ft., (calculated)

Northwest Corner, East Half,  
Northwest Quarter, Section  
28, Township 27-S, Range  
2-E, 6th Principal Meridian

Point of Commencing



Project Number 10-07-E517

E:eng/East Kellogg/Exhibits/Tract 39.dwg

3-17-11





# 10001 East Kellogg



<input type="checkbox"/>	Identified Features
<input type="checkbox"/>	Property Parcels
	Roads
	State Highway
	US Federal Highway
	Interstate
	KTA
	Arterial
	Collector
	Minor
	Ramp
	Railroads
	Quarter Section
	Waterways
	Streams
	Parks
	Airports
	SDERASTER.S-DEDATA.ORTH-01FT
	SDERASTER.S-DEDATA.ORTH-0
	City Limits
	Andale
	Bel Aire
	Bentley
	Cheney
	Clearwater
	Colwich
	Derby
	Eastborough
	Garden Plain
	Goddard
	Haysville
	Kechi
	Maize
	Mount Hope



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

**CITY OF WICHITA**  
**City Council Meeting**  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** Partial Acquisition of 11006 East Kellogg for the Improvement of the Kellogg Avenue (US Highway 54) from Cypress to Chateau (District II)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

---

**Recommendation:** Approve the acquisition.

**Background:** On February 8, 2011, the City Council approved the design for the improvement of Kellogg Avenue (Highway 54) from Cypress to Chateau. The project calls for the improvement of Kellogg to a six lane, limited access highway with one way frontage roads on each side of the highway together with interchanges at the intersections of Webb Road and the Kansas Turnpike (Interstate 35). The project will require the acquisition of all or part of approximately 32 parcels. The properties consist of a mix of retail and commercial uses. The property located at 11006 East Kellogg is comprised of 165,092 square feet and improved with a 10,991 square foot restaurant built in 2007. The building is not impacted by the acquisition. The project requires 6,371.7 square feet from the southeast portion of the site and an 8,345.9 square foot temporary easement during construction.

**Analysis:** The acquisition was appraised at \$82,020 predicated on a land value of \$6.30 per square foot and a two year term for a 36,926.8 square foot temporary easement. During negotiations, the temporary easement was reduced to 8,345.9 square feet and the term was increased to six years. Additionally, based on recent sales data, the land value was increased to \$9 per square foot. These changes resulted in a value of \$97,910 which was accepted by the property owner.

**Financial Considerations:** A budget of \$98,910 is requested. This includes \$97,910 for the acquisition and \$1,000 for the closing costs and other administrative costs. The funding source is Local Sales Tax (LST) and, State and Federal grant funds administered by the Kansas Department of Transportation.

**Legal Considerations:** The Law Department has approved the real estate agreement as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) approve the Budget; 2) approve the Real Estate Purchase Agreement; and 3) authorize the necessary signatures.

**Attachments:** Aerial map, tract maps, and real estate purchase agreement.

PROJECT: East Kellogg DATE: 03/04/13  
 COUNTY: Sedgwick TRACT NO.: 28

THE CITY OF WICHITA, KANSAS

**CONTRACT FOR CONVEYANCE**  
**OF REAL ESTATE BY WARRANTY DEED WITH ACCESS**  
**CONTROL AND TEMPORARY EASEMENT**

THIS AGREEMENT Made and entered into this 26th day of March, 2013, by and between 2012

Corral Group L.P.  
7750 N Macarthur Blvd. STE 120-122  
Irving, TX 75063  
 (Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

**WITNESSETH**, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed and Temporary Easement to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "TRACT #28, TRACT #28-AC, AND TRACT #28-TEMP" ATTACHED  
 HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed, permanent easement and temporary easement conveying said property free of encumbrance has been delivered.

Real property to be acquired as right of way (Fee and Permanent Easement)  
with access control:

6,371.7 sq. ft. in Fee and all improvements thereto \$ 57,348.00

Cost to Cure:

N/A \$ N/A

Temporary Easement:

8345.9 sq. ft. \$ 40,562.00

**TOTAL:** \$ 97,910.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

**IN WITNESS WHEREOF** The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS: *Corral Group, LP*

By: *[Signature]* - *Guillermo Perales, CEO* By: \_\_\_\_\_

THE CITY OF WICHITA

ATTEST:

By: \_\_\_\_\_  
Carl Brewer, Mayor

By: \_\_\_\_\_  
Karen Sublett, City Clerk

## MEMORANDA

Exact and full name of owner, as name appears of record:

Corral Group L.P.

If mortgage or other liens, show names of holders:

Sovereign Bank

## REMARKS:

PIN/APN 00574762

Security Title File Number 2039898

APPROVED TO FORM:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

\_\_\_\_\_  
Gerald Cain, Project Manager

# EXHIBIT

## RIGHT OF WAY ACQUISITION

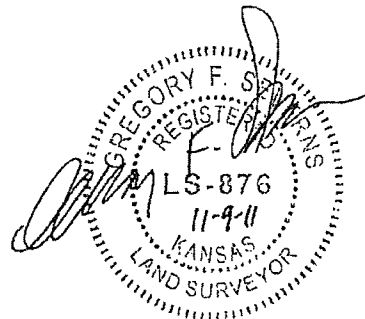
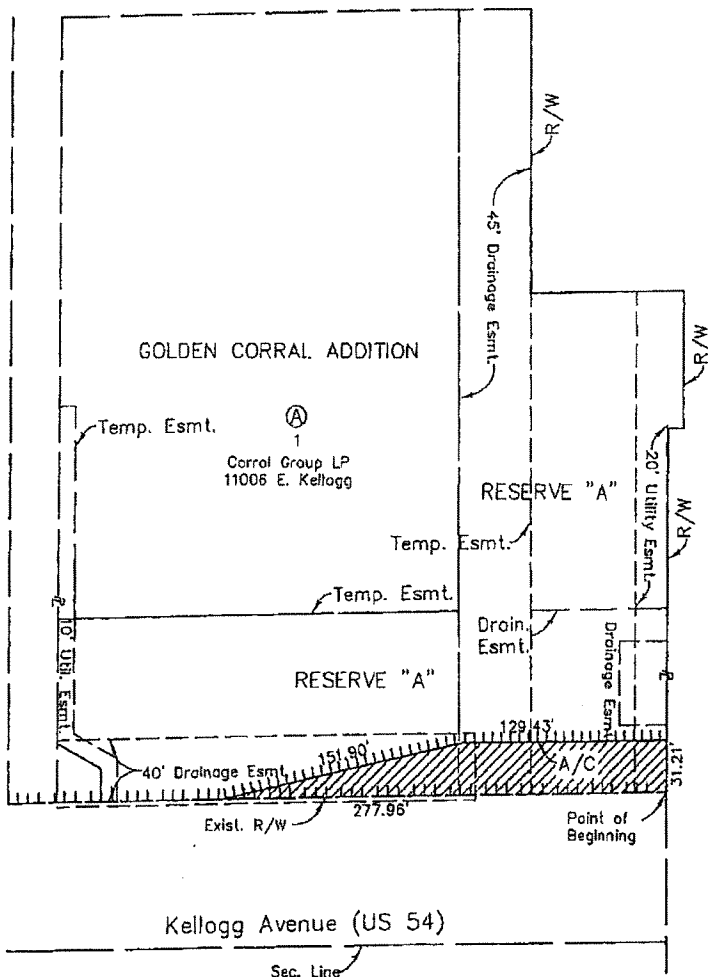
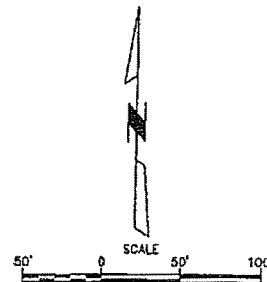
Tract # 28

C-62121

### LEGAL DESCRIPTION:

That part of Reserve "A", Golden Corral Addition, Wichita, Sedgwick County, Kansas described as follows:  
Beginning at the southeast corner of said Reserve "A"; thence westerly along the south line of said Reserve "A"; 277.96 feet; thence northeasterly with a deflection angle to the right of 168°06'11", 151.90 feet to a point 120.00 feet normally distant north of the south line of the Southeast Quarter of Section 21, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence easterly with a deflection angle to the right of 11°56'38" and parallel with the south line of said Southeast Quarter, 129.43 feet to a point on the east line of said Reserve "A", said point being 31.21 feet north of the southeast corner of said Reserve "A"; thence southerly along the east line of said Reserve "A", 31.21 feet to the point of beginning.

Containing 6,371.7 Sq. Ft., (calculated)



11-9-11

Project Number 10-07-E517

E:eng/East Kellogg/Exhibits/Tract 28.dwg

**Baughman Company, P.A.**

315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149

ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

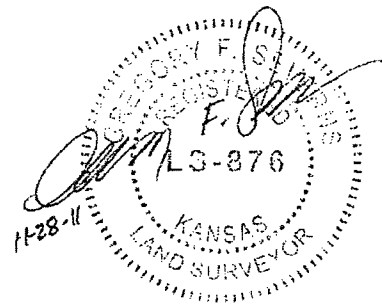
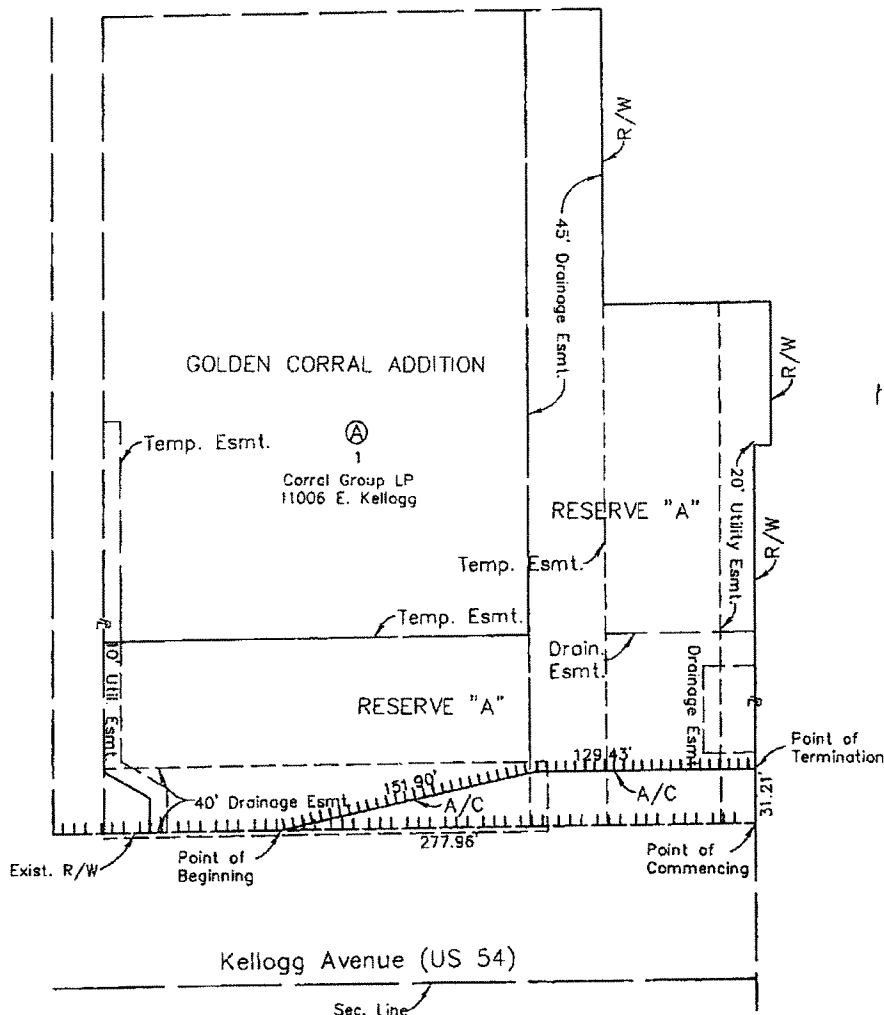
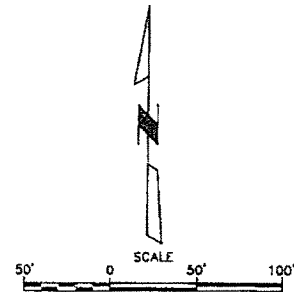
# EXHIBIT ACCESS CONTROL

Tract # 28-AC

C-62121

## LEGAL DESCRIPTION:

Complete Access Control over a line in Reserve "A", Golden Corral Addition, Wichita, Sedgwick County, Kansas, said line being described as follows: Commencing at the southeast corner of said Reserve "A"; thence westerly along the south line of said Reserve "A", 277.96 feet for a point of beginning; thence northeasterly with a deflection angle to the right of 168°06'11", 151.90 feet to a point 120.00 feet normally distant north of the south line of the Southeast Quarter of Section 21, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence easterly with a deflection angle to the right of 11°56'38" and parallel with the south line of said Southeast Quarter, 129.43 feet to a point on the east line of said Reserve "A", said point being 31.21 feet north of the southeast corner of said Reserve "A", and for a point of termination.



11-28-11

Project Number 10-07-E517

E:eng/East Kellogg/Exhibits/Tract 28-AC.dwg



**Baughman Company, P.A.**

315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149

**Baughman** ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE



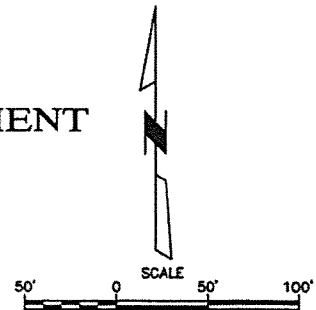
# EXHIBIT

## TEMPORARY CONSTRUCTION EASEMENT

Tract # 28-Temp

Project No. 472-85031

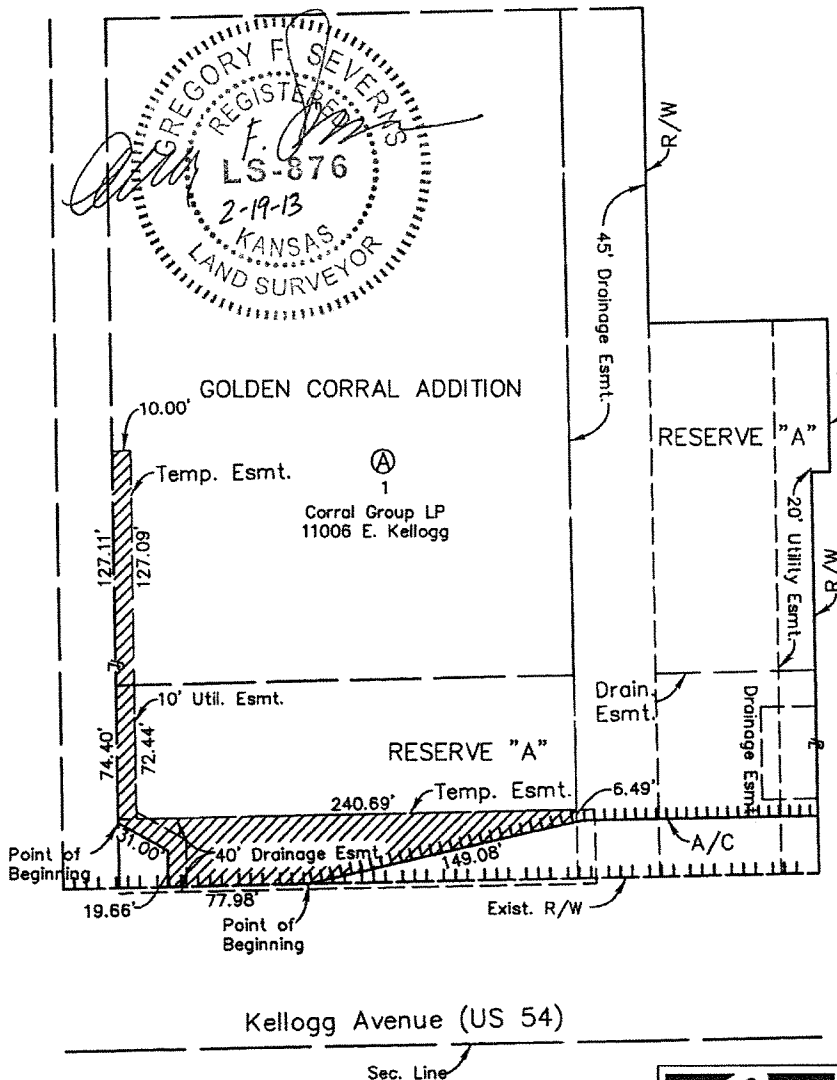
LEGAL DESCRIPTION: C-62121



That part of Reserve "A", Golden Corral Addition, Wichita, Sedgwick County, Kansas described as follows:  
Commencing at the southeast corner of said Reserve "A"; thence westerly along the south line of said Reserve "A", 277.96 feet for a point of beginning; thence continuing westerly along the south line of said Reserve "A", 77.98 feet to the most southerly southwest corner of said Reserve "A"; thence northerly with a deflection angle to the right of 89°54'48" and along the most southerly segment of the west line of said Reserve "A", 19.66 feet to a deflection corner in said west line; thence northwesterly with a deflection angle to the left of 59°47'26" and along a segment of the west line of said Reserve "A", 31.00 feet to a deflection corner in said west line; thence northerly with a deflection angle to the right of 60°06'27" and along a segment of the west line of said Reserve "A", 74.40 feet to a deflection corner in said west line, said deflection corner also being the southwest corner of Lot 1, Block A, in said Golden Corral Addition; thence continuing northerly along the west line of said Lot 1, 127.11 feet; thence easterly with a deflection angle to the right of 89°46'09", 10.00 feet;

thence southerly with a deflection angle to the right of 90°13'51" and parallel with the west line of said Lot 1, 127.09 feet to a point on the south line of said Lot 1, said point also being the most northerly northeast corner of a 10 foot utility easement as granted in said Golden Corral Addition; thence continuing southerly along the most northerly segment of the east line of said 10 foot utility easement, and as extended southerly, 72.44 feet to the intersection with the north line of the 40 foot drainage easement recorded in Film 636 at Page 330; thence easterly with a deflection angle to the left of 90°14'08" and along the north line of said 40 foot drainage easement, (Film 636 at Page 330), 240.69 feet to the intersection with the west line of said 45 foot drainage easement, (Film 325 at Page 284); thence southerly with a deflection angle to the right of 90°00'20" and along the west line of said 45 foot drainage easement, (Film 325 at Page 284), 6.49 feet; thence southwesterly with a deflection angle to the right of 78°06'10", 149.08 feet to the point of beginning.

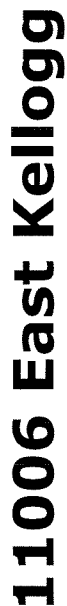
Containing 8345.9 Sq. Ft., (calculated)



Project Number 10-07-E517

E:eng/East Kellogg/Exhibits/Tract 28-Temp-Ph 1a.dwg

**Baughman** **Baughman Company, P.A.**  
315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149  
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**CITY OF WICHITA**  
**City Council Meeting**  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** Acquisition of 465 South Webb Road for the Improvement of the Kellogg Avenue (US Highway 54) from Cypress to Chateau (District II)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

---

**Recommendation:** Approve the acquisition.

**Background:** On February 8, 2011, the City Council approved the design for the improvement of Kellogg Avenue (US Highway 54) from Cypress to Chateau. The project calls for the improvement of Kellogg to a six lane, limited access highway, with one way frontage roads on each side of the highway and interchanges at the intersections of Webb Road and the Kansas Turnpike (Interstate Highway 35). The project will require the acquisition of all or part of approximately 32 parcels. The properties consist of a mix of retail and commercial uses. The property located at 465 South Webb Road contains 75,202 square feet, zoned limited commercial, and is improved with a three-story motel with 107 rooms. The project requires the entire site and the removal of the improvements.

**Analysis:** The acquisition was appraised at \$3,000,000. The owner rejected this offer. The valuation was based on sales through 2010. The owner has subsequently provided documentation for 2012 sales significantly higher than 2010. Based on this information, a settlement of \$3,500,000 was negotiated. This amount includes all relocation payments, both business and individual, associated with the acquisition. The owner will operate the property through the summer with closing scheduled for late September 2013.

**Financial Considerations:** A budget of \$3,601,000 is requested. This includes \$3,500,000 for the acquisition; \$100,000 for demolition; and \$1,000 for the closing costs and other administrative costs. The funding source is Local Sales Tax (LST) together with State and Federal grant funds administered by the Kansas Department of Transportation.

**Legal Considerations:** The Law Department has approved the real estate agreement as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) approve the Budget; 2) approve the Real Estate Purchase Agreement; and 3) authorize the necessary signatures.

**Attachments:** Aerial map, tract map, and real estate purchase agreement.

PROJECT: Kellogg Improvement – Cypress to Chateau      DATE:

COUNTY: Sedgwick

TRACT NO.: 10

**CITY OF WICHITA, KANSAS**  
**A MUNICIPAL CORPORATION**

**CONTRACT FOR CONVEYANCE**  
**OF REAL ESTATE BY WARRANTY DEED**  
**AND TEMPORARY EASEMENT**

THIS AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013 by and between:

SHIV-KISHAN, "Landowner(s)", and the City of Wichita, State of Kansas, "City"

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey unto the City, their duly authorized agents, contractors and assigns the right to enter upon the following described land in Sedgwick County to wit:

Lot 2, R.V.C. Addition to Wichita, Sedgwick County, Kansas

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City and its authorized representatives from any and all costs, liabilities, expenses, suits, judgements, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property until the relocation is completed. In no event will the Landowner be required to move until the City becomes legally entitled to the property.

The City agrees to purchase the above described real estate, and to pay therefore, below described amount on or before September 30, 2013. Landowner may accelerate closing by giving written notice to City that Landowner wishes to close no sooner than 20 days after receipt of notice. Landowner shall surrender possession at closing.

Pursuant to applicable Kansas statutes, the City has the power of eminent domain to acquire real property and the improvements thereon for its lawful public purposes; and in lieu of the City's exercise of its power of eminent domain, Landowner is willing to sell and the City is willing to purchase Landowner's real property described herein.

Landowner acknowledges that the City has initiated condemnation of Landowner's property through

its power of eminent domain and City shall not release Landowner from said action until the transaction herein has closed. If it is necessary to inform the court appointed appraisers in said condemnation action of the agreed consideration of this transaction, Landowner agrees the consideration tendered pursuant to this purchase agreement is the amount due Landowner as just compensation in condemnation and Landowner shall join the City in supporting and requesting this sum in the underlying condemnation action.

Landowner shall remove all personal property prior to closing. Any personal property remaining in or upon said property after closing shall be considered abandoned. The City may dispose of any remaining personal property in any way it deems without further compensation to Landowner.

All taxes, rents, insurance premiums, etc. shall be prorated at closing. All closing fees and costs are to be paid by the City.

Real property to be acquired as right of way:

Approximately 75,202 Sq. Ft. and all improvements there to	<u>\$3,500,000.00</u>
<b>TOTAL</b>	<b>\$3,500,000.00</b>

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out including claims that Landowners may assert pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, 42 U.S.C.A. 4601, et. Seq.

**IN WITNESS WHEREOF** The parties have hereunto signed this agreement the day and year first above written.

**LANDOWNER:**

SHIV\_KISHAN, Inc.

**BUYER:**

City of Wichita, KS, a municipal corporation

\_\_\_\_\_  
Carl Brewer, Mayor

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:

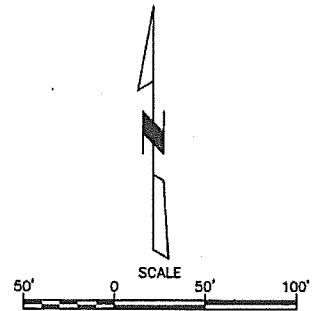
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Gary E. Rebenstorf, Director of Law

# EXHIBIT

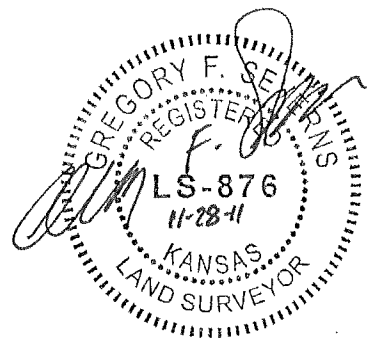
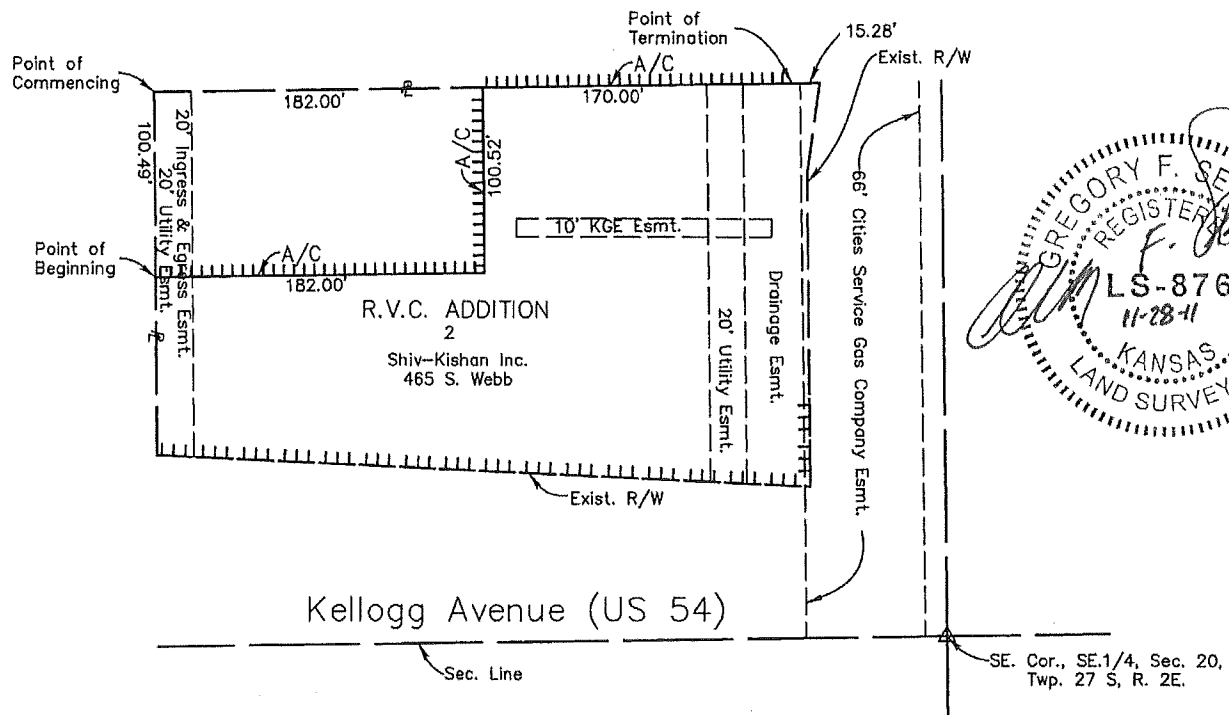
## ACCESS CONTROL

Tract # 10-AC  
C-42621



### LEGAL DESCRIPTION:

Complete Access Control over a line in Lot 2, R.V.C. Addition, Wichita, Sedgwick County, Kansas, said line being described as follows: Commencing at the northwest corner of said Lot 2; thence southerly along the west line of said Lot 2, 100.49 feet for a point of beginning; thence easterly, 182.00 feet to a point 100.52 feet south of the north line of said Lot 2 as measured parallel with the west line of said Lot 2; thence northerly parallel with the west line of said Lot 2, 100.52 feet to a point on the north line of said Lot 2, said point being 182.00 feet east of the northwest corner of said Lot 2; thence easterly along the north line of said Lot 2, 170.00 feet to a point 15.28 feet west of the northeast corner of said Lot 2, and for a point of termination.



11-28-11

Project Number 07-070-E876

E:eng/East Kellogg/Exhibits/Tract 10-AC.dwg

**Baughman Company, P.A.**  
315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149  
**Baughman** ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

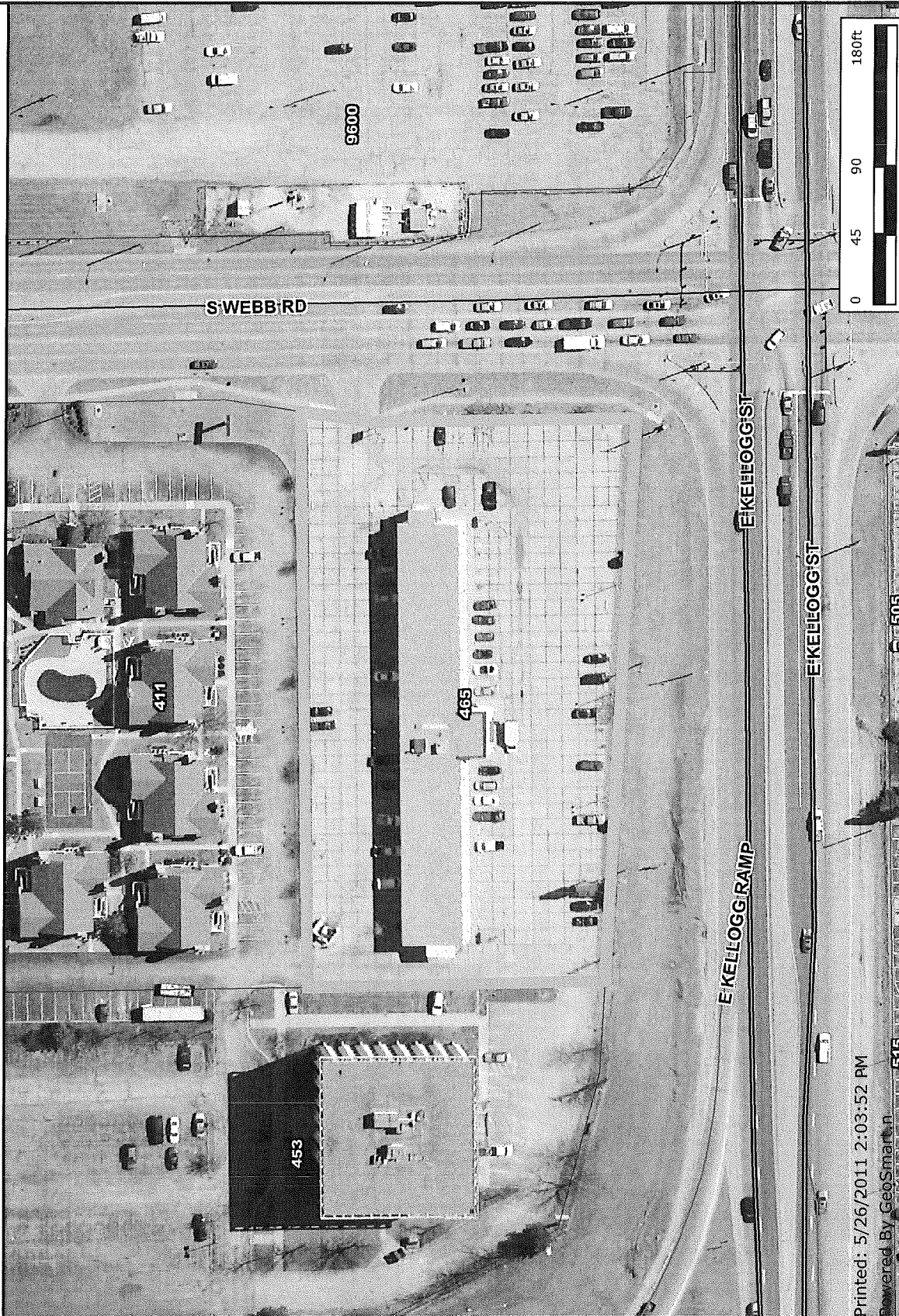




# 465 S Webb Rd

C-42621, Tract 10

- Identified Features
- Selected Features
- Property Parcels
- Roads
  - State Highway
  - US Federal Highway
  - Interstate
  - KTA
  - Arterial
  - Collector
  - Minor
  - Ramp



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Powered By GeoSmart



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RESOLUTION NO. 13-064

A RESOLUTION ESTABLISHING THE ORDER OF SUCCESSION AS MAYOR OF THE CITY OF WICHITA, KANSAS, IN THE ABSENCE FROM THE CITY OF THE MAYOR AND THE VICE MAYOR.

WHEREAS, Section 2.04.032 of the City Code provides that the City Council is to designate from the membership thereof, members to serve as Mayor in the absence from the City of the Mayor, Vice Mayor, or other Council Members:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF WICHITA, KANSAS:

SECTION 1. That the order of succession as Mayor of the City of Wichita, Kansas, in the absence there from of the Mayor and the Vice Mayor or other Council Member shall be:

Council Member Pete Meitzner  
Council Member Jeff Longwell  
Council Member James Clendenin  
Council Member Lavonta Williams  
Council Member Jeff Blubaugh  
Council Member Janet Miller

SECTION 2. This Resolution shall be in force and effect after its due passage.

ADOPTED at Wichita, Kansas, this April 16, 2013.

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf, Director of Law

City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** HOME Program: Housing Development Loan Program Funding (Districts I, III, IV, V, VI)

**INITIATED BY:** Housing and Community Services Department

**AGENDA:** Consent

---

**Recommendation:** Approve the Housing Development Loan Program funding allocation and authorize the necessary signatures.

**Background:** On May 1, 2012, the City Council approved final allocations under the 2012-2013 fourth program year action plan funding process, which included a total of \$235,000 in HOME Investment Partnerships Program (HOME) funding for the Housing Development Loan Program (HDLP). The HDLP is designed to provide subsidies for infill housing projects, to support the development of real estate that is idle or underutilized, and to provide needed housing for underserved populations. Funding may be provided to non-profit or for-profit organizations. The loan structure is dependent upon the type of project to be financed. The program funding must be utilized within the boundaries of the City's Redevelopment Incentives Area (RIA), Neighborhood Revitalization Area (NRA) and Local Investment Areas (LIA), as described within the Neighborhood Revitalization Plan adopted by the City Council. Requests for funding under the program are received on an open application basis. The Housing and Community Services Department established \$140,000 as the maximum funding amount available to any one applicant, per application.

**Analysis:** HOME funds have been essential for the development of housing that is affordable for income-eligible owner-occupant buyers in the City's targeted areas because the lower predominant values in existing neighborhoods make it difficult to fully recover the costs of construction from the sales price. HOME funds are made available for construction of single-family homes in the form of a development subsidy (between \$35,000 and \$50,000) to offset acquisition, construction and site improvement expenses, as well as selling expenses and developer fees. The current maximum selling price for HOME-funded homes is \$95,550 however lower values in existing neighborhoods in the City's targeted areas often results in homes being sold for less.

All homes constructed with HOME funding through the HDLP must be sold to owner-occupant, income-eligible home buyers who will receive down payment/closing cost assistance loans through the City's HOMEownership 80 Program.

Residential Housing Solutions (RHS) has submitted an HDLP application to finance construction of one home on a vacant lot located within the City's Redevelopment Incentives Area. RHS is a for-profit developer and will use a local building contractor to construct the home. RHS has identified a site and a qualified buyer for the home to be developed. The newly constructed home will feature a basement and a two-car garage.

The HOME program requires an environmental review prior to the start of a HOME-funded project. Environmental review conditions for houses to be constructed in existing neighborhoods typically include design requirements, such as side-load garages at the rear of house structures and requirements for the

installation of radon systems. In addition, homes constructed with HOME funding must comply with the 2012 International Energy Conservation Code, which exceeds building code requirements for the City of Wichita. These requirements add to the cost of construction and when combined with predominant values in the neighborhood, increase the subsidy that is required in order to develop new single-family housing. In this case the development subsidy will be approximately \$45,000 to \$50,000.

**Financial Considerations:** HOME funding for the proposed project will be \$50,000, and will be provided in the form of a zero-interest, forgivable participation construction loan. A local bank will provide a construction loan equivalent to 70% to 75% of the appraised value of the home to be constructed. The total cost of the proposed project is estimated to be \$139,700.

**Legal Considerations:** The Law Department has reviewed and approved the funding agreement as to form.

**Recommendations/Actions:** It is recommended that the City Council approve the Housing Development Loan Program funding allocation and authorize the necessary signatures.

**Attachments:** Funding agreement.

FUNDING AGREEMENT  
Between  
**THE CITY OF WICHITA**  
**HOUSING AND COMMUNITY SERVICES DEPARTMENT**  
A  
PARTICIPATING JURISDICTION  
And  
**Residential Housing Solutions LLC**  
HOME Investment Partnerships  
Program  
2012 Housing Development Loan Program Funding

Housing and Community Services Department  
City of Wichita  
332 N. Riverview  
Wichita, Kansas 67203  
Phone (316) 462-3700  
Fax (316) 462-3719

No. \_\_\_\_\_

## **AGREEMENT**

THIS CONTRACT, dated April 16, 2013, and effective the date signed by the Mayor of the City of Wichita, by and between the City of Wichita, Kansas (hereinafter referred to as "the City") and Residential Housing Solutions LLC (RHS, hereinafter referred to as the "Developer").

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program Grant (hereinafter referred to as HOME), from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department").

WHEREAS, the Developer is desirous of participating in activities eligible under HOME, and further agrees that the beneficiaries of its activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the City deems the activities to be provided by the Developer as consistent with, and supportive of the HOME Investment Partnership Program, and that the Developer requires the financial assistance of the City to initiate its activities; and

WHEREAS, the cooperation of the City and the Developer is essential for the successful implementation of an Affordable Housing Program;

WHEREAS, the Developer shall be the responsible authority without recourse to the City regarding the settlement and satisfaction of all contractual and administrative issues arising out of this agreement;

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Developer must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than \$10,000 shall require a written contract amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Developer are to begin as soon as possible, on the date of this contract, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this contract. The construction phase of this contract shall be complete by November 30, 2014, with all expenses incurred on or before that date. This contract shall otherwise remain in force through the period of affordability, which will end on a date up to 15 years following the date of completion of each unit, as defined in 24 CFR 92.2, depending on the amount of HOME funds invested in each unit

of construction. Should it be necessary to convert a housing unit developed under this agreement to a rental unit as described in section IV of Exhibit B of this agreement, the contract will otherwise remain in force through the period of affordability which will end on a date 20 years following the date of completion of the unit, as defined in 24 CFR 92.2. Deed restrictions filed in connection with each unit will specify the applicable affordability period for the unit.

### SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Developer shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Developer shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and information. The Developer, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections. The Developer shall at any time and as often as the Housing and Community Services Department, or the City or the Comptroller General, or the Department of Housing and Urban Development, (HUD) or the HUD Inspector General of the United States may deem necessary, make available all its records and data for the purpose of making audits, reviews, examinations, excerpts and transcriptions.

SECTION 4. CONFLICT OF INTEREST. No owner, Developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Developer or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, Developer or sponsor) may occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or Developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. (24 CFR 92.356 (f)(1)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

### SECTION 5. DISCRIMINATION.

A. Discrimination Prohibited. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Developer receiving funds pursuant to this contract.

B. The Developer further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

C. The Developer will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, or religion, in accordance with Executive Order 11246 – Equal Employment Opportunity, as amended and its implementing regulations at 41 CFR Part 60. If the Developer has fifteen or more employees, the Developer is prohibited from discriminating against any employee or applicant with a disability, in accordance with Title I of the Americans with Disabilities Act of 1990 (ADA). Nondiscrimination notices should be included in all job postings and posted in a visible place in the Developer's office.

#### SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with the HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this

contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The Developer agrees to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Developer agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Developer will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Developer which involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event the Developer sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded



under this agreement, the Developer shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or redeveloper to assume the same obligations as the Developer for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

**SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS.** Except with respect to the rehabilitation or construction of residential property containing less than twelve units, the Developer and all contractors and subcontractors engaged under contracts in excess of \$2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874, and 40 U.S.C. 276c) as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto, and the Fair Labor Standards Act of 1938, As Amended (29 U.S.C. 201, et seq.). **The Developer shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards.** No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of more than 11 units, and is exempt from Davis-Bacon Act wage requirements.**

The Developer shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,  
contracting or subcontracting, promotion, demotion,  
transfer, layoff, termination, rates of pay or other  
forms of compensation, and selection for training  
including apprenticeship.

The Developer shall incorporate the foregoing requirements of this paragraph in all of its contracts, except those exempt by law, and will require all of its contractors to incorporate such requirements in all subcontracts.

## SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:

The Developer and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is \$2,500 or more, including, but not limited, to the following:

a) The Developer will not discriminate against any employee or applicant for employment because of disability in regard to any position for which the employee or applicant for employment is qualified.

b) The Developer agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their disability in all employment practices, including, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

c) **The Developer agrees to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Developer's compliance with The Rehabilitation Act.** Such notices shall state the Developer's obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Developer shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract, shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

## SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Developer, relative to conducting the operations of the project activities and services as herein described, will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total Payment to the Developer will not exceed \$50,000.00 as referenced in Exhibit B. Contract payments above \$50,000.00 are contingent upon the sale of completed projects and extended grant authority as a result of program income generated by the project.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Developer or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by the Developer, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 30, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Developer agrees to re-pay any HOME funds advanced under this agreement. The Developer further agrees to transfer ownership of any properties that are the subject of incomplete projects that have been funded under this agreement to the City, or as directed by the City, in order to facilitate project completion, as required under the HOME regulation.

## SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Developer mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than \$10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of \$100,000, the Developer agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), As Amended.

SECTION 16. FEDERAL ENVIRONMENTAL REVIEW AND APPROVAL PROVISIONS.

A. In accordance with 24 C.F.R. Part 58.22, the developer agrees to refrain from undertaking any physical activities or choice limiting actions until the City has approved the project's environmental review. Choice limiting activities include acquisition of real property, leasing, repair, rehabilitation, demolition, conversion, or new construction. This limitation applies to all parties in the development process, including public or private nonprofit or for-profit entities, or any of their contractors.

B. This agreement does not constitute an unconditional commitment of funds or site approval. The commitment of funds to the project may occur only upon satisfactory completion of the project's environmental review in accordance with 24 CFR Part 58 and related environmental authorities. Provision of funding is further conditioned on the City's determination to proceed with, modify, or cancel the project based on the results of the environmental review.

C. The Developer agrees to abide by the special conditions, mitigation measures or requirements identified in the City's environmental approval and shall ensure that project contracts and other relevant documents will include such special conditions, mitigation measures or requirements.

D. Until the City has approved the environmental review for the project, neither the Developer nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance to the project or activity.

E. The Developer agrees to provide the City with all available environmental information about the project and any information which the City may request in connection with the conduct and preparation of the environmental review, including any reports of investigation or study which in the City's opinion is needed to fulfill its obligations under HUD environmental requirements.

F. The Developer agrees to advise the City of any proposed change in the scope of the project or any change in environmental conditions, including substantial changes in the nature, magnitude, extent or location of the project; the addition of new activities not anticipated in the original scope of the project; the selection of an alternative not in the

original application or environmental review; or new circumstances or environmental conditions which may affect the project or have bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity.

SECTION 17. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (3.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (3.) as amended, and Section 504 of the Rehabilitation Act of 1973.

The Section 504 implementing regulations (24 CFR Part 8) apply to this project. Newly constructed or rehabilitated housing for purchase or single-family housing developed with Federal funds must be made accessible upon the request of the prospective buyer if the nature of the prospective occupant's disability so requires. Should a prospective buyer request a modification to make a unit accessible, the owner/developer must work with the buyer to provide specific features that meet the need(s) of the prospective homebuyer/occupant. If the design features that are needed for the buyer are design features that are covered in the Uniform Federal Accessibility Standards (UFAS), those features must comply with the UFAS standard. The Developer shall be permitted to depart from the standard in order to have the buyer/occupant's needs met.

Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19), and Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 18. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Developer, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Developer pursuant to this contract.

SECTION 19. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Developer shall comply with 24 CFR 84.21, Standards for financial management systems, as follows:

- (a) Developer is required to relate financial data to performance data and develop unit cost information whenever practical.
- (b) Developer's financial management systems shall provide for the following:

- (1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in §84.52. If a recipient maintains its records on other than an accrual basis, the developer shall not be required to establish an accrual accounting system. The Developer may develop such accrual data for reports on the basis of an analysis of the documentation on hand.
  - (2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
  - (3) Effective control over and accountability for all funds, property and other assets. The Developer shall adequately safeguard all such assets and assure they are used solely for authorized purposes.
  - (4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.
  - (5) Written procedures to minimize the time elapsing between the transfer of funds to the developer from the City, and the issuance or redemption of checks, warrants or payments by other means for program purposes by the Developer. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."
  - (6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.
  - (7) Accounting records including cost accounting records that are supported by source documentation.
- (c) Where the City guarantees or insures the repayment of money borrowed by the Developer, The City, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the City.
- (d) The City may require adequate fidelity bond coverage where the Developer lacks sufficient coverage to protect the City's interest.
- (e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

SECTION 20. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 21. LEAD-BASED PAINT POISONING PREVENTION. Should HOME funding be utilized for rehabilitation of existing structures, the Developer will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Community Development Act of 1992. Compliance will include all activities required by these regulations. The Developer also agrees to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Developer will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The project will comply with section 92.355 of the HOME rule. The Developer will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Developer will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations found at 24 CFR part 35.

SECTION 22. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Developer. If the contract is terminated by the City as provided herein, the Developer will be paid an amount which bears the same ratio to the total compensations the services actually performed bear to the total services of the Developer covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Developer shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Developer during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Developer, Section 13 herein relative to termination shall apply.

SECTION 23. REFUND OF INCOME. All income earned by the project as a result of entitlement funds (program income) shall be accounted for and refunded to the City as it is received, unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 24. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Developer agrees to transfer ownership of any real property purchased with HOME funds under this agreement or any prior written agreement, to the City, upon written notification. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

**SECTION 25. OTHER FEDERAL REGULATIONS.** Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows:

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, (42 U.S.C. 3601-3620) As Amended, and implementing regulations at 24 CFR 100. The Fair Housing Act prohibits discrimination in the sale, rental and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability.

Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.). This law prohibits discrimination on the basis of race, color, and national origin in all Federally-assisted programs.

The Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101), and implementing regulations at 24 CFR Part 146. This law prohibits age discrimination based on disability in all programs or activities operated by recipients of Federal financial assistance.

Equal Opportunity in Housing (Executive Order 11063, and Executive Order 12259), and implementing regulations at 24 CFR Part 107. These Executive Orders prohibit discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

Title II of the Americans with Disabilities Act (ADA). Title II of ADA prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity. (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225)

**SECTION 26. AFFORDABILITY- HOMEOWNERSHIP.** Housing assisted with HOME funds must meet the affordability requirements specified at 92.254 of the HOME Regulation (24 C.F.R. Part 92). HOME funds must be re-paid to the City if the housing does not meet the affordability requirements for the specified time period. The City will file a mortgage on each property upon purchase for redevelopment, and will hold said mortgage until such time as the property is re-sold to an owner-occupant homebuyer receiving a down payment and closing costs assistance loan through the City's HOMEownership 80 Program. The City will hold the long-term deed restriction placed on the property following the sale of the home as described within this paragraph.

**SECTION 27. AFFORDABILITY-RENTAL.** Rental housing assisted with HOME funds must meet the affordability requirements specified at 92.252 of the HOME Regulation (24 C.F.R. Part 92), as applicable. HOME funds must be re-paid to the City by the Owner if the housing does not meet the affordability requirements for the specified time period.



SECTION 28. DISBURSEMENT OF HOME FUNDS. The Developer may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing and Community Services Department, payments to the Developer will be provided on a reimbursement basis, up to two times per month. The amount of each request will be limited to the amount needed. Developer must provide detailed records to substantiate the amount of HOME funds requested under this agreement, and must retain records, such as invoices, to substantiate said amounts.

SECTION 29. PROPERTY AND HOUSING STANDARDS. Housing that is constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials (24 CFR 92.251), or be certified to be Energy Star compliant. (Developer to provide certification.)

SECTION 30. RELIGIOUS ORGANIZATIONS. Religious organizations may not require a beneficiary to participate in inherently religious activities, such as worship, religious instruction, or proselytizing.

Faith-based organizations may retain independence from Federal, state, and local governments to carry out their missions, including the definition, practice, and expression of its religious beliefs, provided that HOME funds do not financially support inherently religious activities. The organization's Board of Directors may not be selected based on religious practice. Religious references in the organization's mission statement and other governing documents are acceptable. 24 CFR 92.257(c).

Religious organizations must serve all eligible program beneficiaries without regard to religion, and may not restrict HOME-assisted housing to people of a particular religion or religious denomination. The eligibility of an applicant cannot be reliant on the applicant's participation in religious activities or programs supported by the organization, even if funded with other non-Federal sources.

SECTION 31. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

Exhibit A: Revised Non-Discrimination & Equal Employment  
Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

**Residential Housing Solutions, LLC**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title of RHS Officer

\_\_\_\_\_  
Date

**CITY OF WICHITA, KANSAS  
at the Direction of the City Council**

\_\_\_\_\_  
Carl Brewer, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_\_  
Date

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney  
and Director of Law of the  
City of Wichita

\_\_\_\_\_  
Date

**REVISED NON-DISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM  
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
  4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
- D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

## **Exhibit B**

### **PERFORMANCE CRITERIA AND CONTRACT OBJECTIVES**

It is mutually agreed and understood by the City of Wichita and Residential Housing Solutions, LLC, hereinafter referred to as the "City" and "Developer" (or RHS) respectively, that execution of this contract obligates the Developer to the following performance requirements.

In return for the \$50,000.00 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the acquisition of an existing vacant home or vacant lot located within the boundaries of any of the City's six Local Investment Areas, or within the boundaries of the City's Neighborhood Revitalization Area, or within the boundaries of the City's Redevelopment Incentives Area, with a new single-family home to be constructed on said site. Existing structures acquired for redevelopment must be vacant and unoccupied for a period of at least 90 days, and must be demolished with a new single-family home to be constructed on the site. Vacant lots owned by the Developer are eligible for development with funding provided under this agreement, provided they are located within one of the aforementioned target areas. Vacant lots must also be re-developed with a new single family home on each site. A minimum of one (1) new single-family home is to be constructed/developed and sold to an eligible owner-occupant homebuyer, unless a single-family home developed under this agreement must be converted to a single unit HOME-assisted rental project as described in Section IV of this Exhibit "B".

Housing constructed under this agreement must be re-sold to a HOME-compliant owner-occupant buyer, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Developer represents and agrees that its purchase of property and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

The Developer represents and agrees that it will remain the owner of the property until it reaches agreement with a prospective buyer(s) of the property and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

#### **I. Project Requirements**

- A. Project must conform to regulations under 24 CFR Part 92. The HOME Investment Partnerships Program regulation. Specific references can be found as follows:

**24 CFR 92.250**, Maximum Per Unit Subsidy: The amount of HOME funds invested per unit may not exceed the per-unit dollar limits established under section 221 (d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the City of Wichita.

**24 CFR 92.251**, Property Standards: Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance.

**24 CFR 92.254(a)(2)(iii)**, Maximum Property Value: Housing created or acquired and rehabilitated with HOME funds must be modest in nature and affordable to a low-income buyer. The maximum purchase price or value cannot exceed 95 percent of median purchase price for the area, as determined by HUD.

- B. Prior to executing any contracts for sale of assisted properties, the Developer must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

## II. Program Content

- A. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, demolition, and the developer fees earned in connection with completion of each unit.

Funding under this agreement will be provided in the form of a 0% loan to complete a project as approved by the Department of Housing and Community Services.

Developer shall obtain a construction loan in order to leverage HOME funds construction investment, in an amount equivalent to 70% or more of the appraised value of the home to be constructed, as approved by the City.

## III. Administration

The RHS President/C.E.O. will supervise operations and administration on a day-to-day basis. The RHS Board of Directors is ultimately responsible for program administration.

- A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available to RHS for this project will be \$50,000.00, in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment.
- B. Budget: The City shall pay the Developer as hereinafter set out; the maximum of \$50,000.00 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with a completed project. The developer fee will be pre-determined at the onset of the construction of the home, and will be paid upon the closing of the sale of the individual home. Proceeds from the sale of the home, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of the development subsidy loan provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed homes/projects, and extended grant authority as a result of repayments generated by the sale of the completed home. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee, Construction Loan Refinance/Principal Reduction, Operating Reserves.)

\$50,000.00

TOTAL \$50,000.00

- C. Method of Payment: The Developer agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.
1. The City and RHS also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than \$10,000, other than those within the scope of this agreement must be approved by the City Council.
  2. RHS will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement



will be retained in the Developer's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

3. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

#### IV. Conversion of Homeownership Activities (Sites) to Rental Projects

In the event that a single-family home and real estate developed under this agreement has not been sold to an eligible homebuyer within six months of completion, the unit must be converted to a HOME rental unit that complies with all HOME requirements for the period of affordability applicable to such unit (20 years), as described in this Section IV. For purposes of this Section IV, the "Developer" shall become the "Owner", and the following additional requirements of this Section IV shall apply:

##### A. Project Requirements

1. Project must conform to regulations under 24 CFR Part 92, commonly known as the HOME Regulations.
2. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, Property Standards, Tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

**24 CFR 92.252**, Qualification as affordable housing: Rental Housing. The HOME-assisted units in a rental housing project must be occupied only by households that are eligible as low-income families and must meet the requirements of this part, in order to qualify as affordable housing.

**24 CFR 92.253**, Tenant and participant protections apply, and are related to lease terms, termination of tenancy, and tenant selection.

**24 CFR 92.504**, Required Annual On-Site Inspections of HOME-assisted Rental Housing.

- ##### B. Initial rents for HOME-assisted units are as follows, per 2012 HUD guidelines:

2 Bedroom: \$643 - \$178 (Utility Allowance) = \$465.00

3 Bedroom: \$822 - \$211 (Utility Allowance) = \$611.00

These rents assume that homes constructed under this program will feature gas heat and gas water heating, an electric range, electric air conditioning, with other electric appliances and electric lighting. Refrigerators and electric ranges are to be provided. The tenant will pay for all utilities, including water service, sewer service, and trash service. If utilities are to be provided in an alternative manner, the Owner will notify the City so that HOME rents can be re-calculated. HOME rents are subject to revision by HUD on an annual basis. HOME assisted units will be subject to rent limitations and other requirements specified in Section 92.252, during the period of affordability.

The Owner is also required to lease the HOME-assisted unit to households earning 60% or less of median annual income for the area, as determined by HUD. This requirement, in addition to the other requirements in Section 92.252, will be in effect during the period of affordability.

Units with four bedrooms may be allowed on a case-by-case basis, subject to City approval. The City will provide HOME rent amounts and utility allowances as required.

- C. Procedures for Rent Increases: The Owner will submit requests for rental increases 60 days prior to the effective date of the proposed rent increase for approval by the City.
- D. Leases, Tenant Selection Policies, and standards for its waiting lists will comply with 24 CFR Part 92.253, and the Owner will submit these documents to the City for review and approval, prior to lease-up.
- E. The Owner shall maintain project/tenant records for a period of no less than five years.
- F. Owner agrees to inspection of all HOME-assisted units following completion to ensure compliance with the requirements of 24 CFR Part 92.251 (a) (1) and (3). The Owner must maintain the housing in compliance with 24 CFR Part 92.251 for the duration of the affordability period, and agrees to inspection of the HOME-assisted units on an annual basis, in order to verify continued compliance with 24 CFR Part 92.251 and 24 CFR Part 92.252.
- G. Owner agrees to execute a document placing deed restrictions and covenants against the property in order to comply with 24 CFR Part 92.252. Said restrictions and covenants will be in force for the period of affordability, which is 20 years,

beginning the date of project completion. Definition of project completion is specified in 24 CFR, Part 92.2. Said document will be filed of record by the City.

- H. Owner agrees to comply with the Fair Housing and Equal Opportunity Act. (92.202 and 92.250), Title VI of Civil Rights Act of 1964, (42 USC 2000d et.seq.), Fair Housing Act (42 USC3601-3620) Executive Order 11063 (amended by Executive order 12259), Age Discrimination Act of 1975, as amended (42 USC 6101), 24 CFR 5.105 (a).

Owner must comply with federal requirements set forth in 24 CFR part 5, subpart A. The requirements of this subpart include: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; and drug-free workplace. Nondiscrimination requirements at section 282 of the Act are applicable.

- J. Owner must comply with the affordability requirements in 24 CFR Part 92.252 as applicable. If Owner fails to comply with the affordability requirements in 24 CFR Part 92.252 repayment of HOME funds is required.
- K. The Owner/Project Management must verify the income of tenants of HOME-assisted units prior to occupancy, per the requirements of 24 CFR Part 92.203 (a) (1) (I). Copies of source documentation are required to be maintained in tenant files. Project Management must re-examine the income of tenants of HOME-assisted units on an annual basis. Project Management will utilize the definition of annual income described in 24 CFR Part 92.203 (b) (1), also known as the Section 8 Method.
- L. The Owner/Project Management agree to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for the project. The Affirmative Marketing Plan must be available for public inspection in the leasing office. The plan must contain specific steps and actions that the developer will take to provide information and otherwise attract eligible persons of all racial, ethnic, and gender groups in the housing market area of the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:
  - 1. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.
  - 2. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period
  - 3. Send notices of housing availability (using form approved by the City) to

agencies from a list provided by the City.

4. Provide copies of all materials sent to community contacts announcing the housing availability to the City of Wichita Housing Services Department.
5. No later than 90 days prior to engaging in marketing activities, the Agency should notify the City of Wichita Housing Services Department, either in writing or by telephone of the earlier of the dates on which: (1) the Agency plans to begin initial marketing activities; (2) accepts leasing applications; and (3) begins leasing units.
6. The Owner must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.
7. The Owner will retain copies of all documentation related to marketing efforts, and make available for City inspection.
8. The Owner will provide, for the year ending June 30 of each year, beginning June 30, 2013, an annual report, in a format to be provided by the City. Said report shall be due to the City of Wichita July 10 of each applicable year.

V. Records and Reports

- A. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.
- B. **The Developer will provide, for the year ending June 30 of each year, beginning June 30, 2013, an annual report of the HOME funded portion of the program.** It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developer's fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses. The City reserves the right to change the due dates and contents of reports to be submitted under this clause.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds, when applicable. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita **July 10** of each applicable year.

- C. Additionally, a narrative or other description of progress may be provided.
- D. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

## VI. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

- A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force until such time as a property/home is re-sold, as specified in this agreement.
- B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.
- C. Provide Certificates regarding Debarment and Suspension, and/or lists of contractors/subcontractors to be utilized and other file documentation as requested by the City in order to comply with HOME regulations.
- D. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing and Community Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing and Community Services Department.
- E. Provide evidence that ownership interest in the property vests in RHS (Copy of Deed, and/or Title Insurance Binder/Policy)
- F. The Developer will notify the City of any properties it contracts to purchase, or intends to develop with funding provided under this agreement, in order for the City to complete the environmental reviews required under **24 CFR 92.352**, as specified in Section 16 of this contract, prior to closing of the purchase. Developer agrees to comply with all requirements imposed on a particular project/site as a result of the environmental review process.
- G. The Developer will obtain any and all permits required by the City prior to undertaking construction.

- H. The Developer will obtain construction loans from private sector financial institutions, in an amount equivalent to a minimum of 50% of the appraised value of the home to be developed/constructed on each project site.
- I. The Developer will obtain the approval of the City of Wichita Housing and Community Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.
- J. The Developer shall obtain Builder's Risk Insurance for the home to be constructed, in an amount sufficient to repay the amount of the face amount of the first mortgage construction loan, plus anticipated interest expense, and the total anticipated HOME funds investment in the project. The Developer is also responsible for workers compensation insurance and general liability insurance.
- K. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The Developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development. During the process of redevelopment and/or construction, should the Developer discover any soil staining or odors emanating from soil at the project site, the Developer must cease work immediately, and notify the City.
- L. The Developer shall submit any subdivision plats, street designs, variance requests, lot split requests, or any other documentation regarding zoning adjustments required to carry out construction of a home or a group of homes to the Housing and Community Services department for review and approval, prior to submission to the Wichita/Sedgwick County Metropolitan Area Planning Department, or the Wichita/Sedgwick County Metropolitan Area Planning Commission.
- M. In addition to the above, the Developer agrees to provide any additional documentation deemed necessary by the City to comply with program regulations, including, but not limited to, real estate contracts and mortgage loan commitment documentation.

## VII. Other Program Requirements

A. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Marketing Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the Developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

1. Display of the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.
2. Display of the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.
3. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing and Community Services Department, either in writing or by telephone of the dates on which the Developer plans to: (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.
4. The Developer must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.
5. The Developer must market/advertise the housing opportunity utilizing publications, such as community newspapers, in an effort to attract income-qualified homebuyers.

B. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

The Developer shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.

C. Site Improvements: The City may require a Developer to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, seeding or sodding of front yards, and 4' chain-link fencing.

Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.

- D. Warranty: The Developer must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.
- E. Developer is required to obtain insurance coverage for all perils, including vandalism, in an amount equivalent to the amount of the first mortgage construction loan balance plus interest, and the total HOME funds investment, in the event that a home constructed under this agreement has not sold, as of the day of completion, and the Builder's Risk Insurance Policy will no longer provide adequate coverage.
- F. Developer is responsible for retaining all records in connection with projects undertaken with HOME funding provided under this contract, including but not limited to, real estate purchase contracts, invoices, property development documentation, infrastructure development, and other records as further specified in this agreement.
- G. Developer shall apply for City incentives, as available, for projects undertaken with funding provided under this agreement, including property tax rebates and permit fee waivers.

#### VIII. Program Evaluation

The City shall evaluate this project based on the objectives stated in this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in progress reports.

#### IX. Project Close-Out

The Developer shall provide all records and reports as deemed necessary by the City, in order to satisfy federal requirements related to final reporting and project close-out, in accordance with established HUD procedures.



**BUDGET**

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee, Construction Loan Refinance/Principal Reduction, Operating Reserves.)

\$50,000.00

**TOTAL**

**\$50,000.00**



**DEPARTMENT OF LAW  
INTEROFFICE MEMORANDUM**

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**TO:** Karen Sublett, City Clerk  
**FROM:** Gary E. Rebenstorf, Director of Law  
**SUBJECT:** Report on Claims for March, 2013  
**DATE:** April 2, 2013

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The following claims were approved by the Law Department during the month of March, 2013.

Boggs, John	\$ 163.10
Burgin, Archie	\$1,083.24
Coleman, Shannon	\$1,038.78
Kansas Gas Service	\$ 907.62
Platek, Karla	\$ 171.00
Sims, Dale	\$ 1,604.91

\*City Manager Approval

\*\* Settled for lesser amount than claimed

\*\*\*Settled for more than amount claimed

cc: Robert Layton  
Kelly Carpenter  
Shawn Henning

City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council Members

**SUBJECT:** Nuisance Abatement Assessments (Districts I, III, IV, V & VI)

**INITIATED BY:** Metropolitan Area Building & Construction Department

**AGENDA:** Consent

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**Recommendation:** Approve the assessment and ordinance.

**Background:** The Metropolitan Area Building & Construction Department supports neighborhood maintenance and improvement through abatement of nuisances under Titles 7 and 8 of the City Code. State law and local ordinance allow the City to clean up private properties that are in violation of environmental standards after proper notification to the responsible party. A private contractor performs the work, and the Metropolitan Area Building & Construction Department bills the cost to the property owner.

**Analysis:** State law and City ordinance allow placement of the lot cleanup costs as a special property tax assessment if the property owner does not pay. Payment has not been received for the nuisance abatements in question, and the Metropolitan Area Building & Construction Department is requesting permission for the Department of Finance to process the necessary special assessments.

**Financial Considerations:** Nuisance abatement contractors are paid through budgeted appropriations from the City's General Fund. Owners of abated property are billed for the contractual costs of the abatement, plus an additional administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property. Nuisance abatements to be placed on special assessments are listed on the attached property list.

**Legal Considerations:** The ordinance has been reviewed and approved by the Law Department.

**Recommendation/Action:** It is recommended that the City Council approve the proposed assessment and place the ordinance on first reading.

**Attachments:** Property List for Special Assessment and ordinance.

Geo Code #	PIN #	Address / Location	Amount	District #
C 10499-000C	155382	602 N Oliver Ave	\$737.10	1
B 03405	122238	1103 N Hydraulic Ave	\$1049.00	1
D 03497	202952	821 S Sedgwick Ave	\$613.11	4
D 01786	200765	411 W University Ave	\$995.76	4
C 19070	164729	2001 S Glendale Ave	931.30	3
D 14689	215868	3422 W 1st St N	609.53	6
C 30865	176168	2752 N Wellesley Ave	923.68	1
C 14776	160687	857 N Edgemoor	458.48	1
C13748	159481	916 N Harding Ave	814.96	1
D 02906	202121	1940 S Meridian Ave	1565.15	4
C 13722	159455	942 N Glendale Ave	705.00	1
D 38600	240851	330 S Shefford Ave	315.00	5
A 06192	106440	1023 S Wichita St 1	520.00	1
C 13303	158996	Vacant Lot W of 2509 E Stadium	847.60	1
C 03241	139291	1627 N Chautauqua	818.14	1
C 03027-1A	139029	1106 N Chautauqua (Vacant Lot)	882.96	1
C 29680	175041	3008 S Clifton St	946.36	3
D 02090-A	201095	802 W Munnell Ave	657.52	4
C 16532	162249	2139 E Shadybrook Ln	988.47	1
D 06122	206759	362 N Sheridan Ave	1145.01	6
D 27306	228171	935 W Meikle Rd	1739.60	4
B 14945	509313	515 E 21st St N	\$890.84	1
B 03406	122240	1105 N Hydraulic Ave	\$610.04	1
D 09089	210203	360 1/2 N Knight St	\$522.51	6
C 01135-00AA	136326	Vacant Lot North of 1642 N Ash	\$561.68	1
A 02585-0002	102024	312 W 19th St N	\$634.42	6
B 01617	120200	1632 N Emporia Ave	\$1,707.80	6

Published in the Wichita Eagle on **April 26, 2013**

ORDINANCE NO. 49-488

AN ORDINANCE MAKING A SPECIAL ASSESSMENT TO PAY FOR THE COST OF ABATING CERTAIN PUBLIC HEALTH NUISANCES (**LOT CLEAN UP**) UNDER THE PROVISION OF SECTION 7.40.050 OF THE CODE OF THE CITY OF WICHITA, KANSAS. BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That the sum set opposite each of the following lots, pieces and parcels of land or ground, herein specified, be and the same is hereby levied to pay the cost of abating certain public nuisances under the provision of Section 7.40.050 of the Code of the City of Wichita, Kansas, which public health nuisances are determined to have existed upon the following described property:

Legal of Parcel in Benefit District	Assessment
LOTS 47-49 EXC BEG 69 FT ELY SW COR LOT 47 NWLY TO PT 55.8 FT E NW COR LOT 49 WLY 15.56 FT SELY TO PT 16.67 FT W OF BEG E TO BEG FOR CC-15010 PENNSYLVANIA AVE. GETTO'S ADD.	1049.00
LOTS 50-51-52 BLOCK 4 EAST HIGHLANDS ADD.	737.10
E 20 FT LOT 18 & W 20 FT LOT 19 UNIVERSITY AVE WINNE'S ADD.	995.76
N 1/2 LOT 4 POWER ST. NOW SEDGWICK AVE. LAWNFIELD ADD.	613.11
LOTS 49-51 & S 5 FT LOT 53 WICHITA ST. KELSCH 2ND. ADD.	520.00
LOT 3 BLOCK 2 EAST HIGHLAND NORTH ADD.	705.00
LOT 9 BLOCK 3 EAST HIGHLAND NORTH ADD.	814.96
LOT 11 BLOCK 6 COUNTRY SIDE ADD.	458.48

LOT 1 BLOCK 14 EDGEWOOD ADD.	931.30
N 20 FT LOT 39-ALL LOT 41 & S 15 FT LOT 43 BLOCK 10 COLLEGE CREST ADD.	923.68
LOTS 33-35 EXC W 10 FT FOR ST CCA-53868 BLOCK P SOUTH UNIVERSITY PLACE ADD.	1565.15
LOT 10 BLOCK A MT CARMEL 4TH ADD	609.53
LOT 4 BLOCK 5 WEST MILLBROOK 2ND. ADD.	315.00
S1/2 LOT 106-ALL LOT 108 CHAUTAUQUA AVE FAIRMOUNT PARK ADD.	882.96
LOTS 21-23 CHAUTAUQUA AVE. WOODRIDGE PLACE ADD.	818.14
E 47 FT LOT 6 & W 25 FT LOT 7 BLOCK 5 SHADYBROOK ADD.	847.60
LOT 3 BLOCK 3 BUILDERS 2ND. ADD.	988.47
LOT 16 BLOCK F PLANEVIEW SUB. NO. 2	946.36
LOTS 69-71 EXC N 40 FT MUNNELL AVE. GLENDALE ADD.	657.52
N 1A W1/2 SW1/4 SW1/4 NE1/4 EXC E 162.5 FT THEREOF SEC 24-27-1W	1145.01
LOT 32 BLOCK A DAVIS-WALKER ADD.	1739.60
LOTS 51-53 EXC CANAL & EXC C-15010 BEG 55.8 FT E SW COR LOT 51 NW TO PT 42.6 FT E NW COR LOT 53 W 14.45 FT SELY TO PT 15.56 FT W OF BEG E TO BEG PENNSYLVANIA AVE. GETTO'S ADD.	610.04
LOT 1 BLOCK 1 WICHITA STOCKYARD ADD.	890.84

LOTS 41-43-45-47 EXC E 74 FT BLOCK 2 AVONDALE ADD.	634.42
LOTS 131-133 EMPORIA ST EAGLE ADD	1707.80
LOTS 56-58 ASH ST. LOGAN ADD.	561.68
THAT PART LOT 30 BEG 123.2 FT S NW COR S 18.6 FT E 186 FT N 45.7 FT W 90.5 FT S 27.1 FT W 95.5 FT TO BEG KNIGHT ACRES ADD.	522.51

SECTION 2. This ordinance shall take effect and be in force from and after its publication once in the official City paper.

ADOPTED, at Wichita, Kansas, this **23th day of April, 2013.**

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

(SEAL)

Approved as to form:

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Gary E. Rebenstorf, Director of Law

City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council Members

**SUBJECT:** Nuisance Abatement Assessments (All Districts)

**INITIATED BY:** Metropolitan Area Building and Construction Department

**AGENDA:** Consent

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**Recommendation:** Approve the assessments and ordinance.

**Background:** The Metropolitan Area Building and Construction Department supports neighborhood maintenance and improvement through abatement of nuisances under Titles 7 and 8 of the City Code. State law and local ordinances allow the City to clean up private properties that are in violation of environmental standards after proper notification to the responsible party. A private contractor performs the work, and the Metropolitan Area Building and Construction Department bills the cost to the property owner.

**Analysis:** State law and City ordinance allow placement of the mowing costs as a special property tax assessment if the property owner does not pay. Payment has not been received for the nuisance abatements in question, and the Metropolitan Area Building and Construction Department is requesting permission for the Department of Finance to process the necessary special assessments.

**Financial Considerations:** Nuisance abatement contractors are paid through budgeted appropriations from the City's General Fund. Owners of abated property are billed for the contractual costs of the abatement, plus an additional administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property. Nuisance abatements to be placed on special assessments are listed on the attached property list.

**Legal Considerations:** The ordinance has been reviewed and approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council approve the proposed assessments and place the ordinance on first reading.

**Attachments:** Property List for Special Assessments



<u>GEO CODE #</u>	<u>PIN #</u>	<u>ADDRESS / LOCATION</u>	<u>AMOUNT</u>	<u>DISTRICT</u>
B 08786	00128765	1915 S Pattie	120.00	3
A 048460001	00104711	2107 N Arkansas	120.00	6
D 49680	00348566	5135 S Mt Carmel	120.00	4
A 04509	00104129	1217 n Bitting	120.00	6
C 21912	00167407	646 S Woodlawn	120.00	2
D 30350	00231463	6800 W Kellogg	120.00	5
A 06709	00107011	1430 S Water	120.00	1
A 06667	00106969	1435 S Main	120.00	1
B 15026	00534543	5311 S Pattie	120.00	3
B 15050	00534567	5358 S Victoria Ct	120.00	3
B 090610001	00129273	2127 S Hydraulic	120.00	3
C 26126	00171557	V/L S of 3001 S Volutsia	120.00	3
C 55125	00484511	7035 S Volutsia	120.00	3
C 55172	00484561	7221 S Chautauqua	138.50	3
C 069610001	00151438	747 S Clifton	120.00	3
C 34452	00179326	2955 S George Washington Blvd	120.00	3
C 43340	00189760	V/L W of 12127 E Kellogg	183.50	2
C 20176	00165768	1615 N Oliver	120.00	3
C 04580	00140769	1538 N Holyoke	120.00	1
C 04579	00140766	1556 N Holyoke	120.00	1
C 13282	00158981	V/L W of 2620 E Stadium	120.00	1
C 03145	00139162	V/L S of 1021 N Estelle	120.00	1
C 00614	00135590	607 N Ash	120.00	1
C 01044	00136188	1239 N Minnesota	120.00	1
B 088560002		SW corner of Arnold &		
	00128966	Pensylvania	120.00	1
B 03733	00122647	1454 N New York	120.00	1
B 033440002	00122171	1111 N Mathewson	120.00	1
A 02627	00102073	2055 N Broadway	120.00	6
A 01645	00100943	1604 N Fairview	120.00	6
A 18190	00349391	5460 N Shelton	120.00	6
A 14454	00114601	V/L E of 3362 N Porter	120.00	6
D 00523	00198957	125 S Exposition	120.00	4
D 11490	00212663	638 N Flora	120.00	4
C 56403	00498125	V/L N of 4636 N Spy Glass	120.00	2
C 56449	00498172	V/L S of 8161 Old Mill Ct	120.00	2
C 56446	00498169	V/L E of 8149 Old Mill Ct	120.00	2
C 56443	00498165	V/L W of 8149 Old Mill Ct	120.00	2
C 56441	00498163	3rd V/L W of 8149 Old Mill Ct	120.00	2
C 56440	00498162	V/L S of 8125 Old Mill Ct	120.00	2
C 39489	00185046	6105 E Mainsgate	120.00	1
C 01131	00136314	V/L SE corner Ash & 17th	120.00	1
C 11921	00157541	2059 E 9th	120.00	1
C 05100	00141377	141 S Kansas	120.00	1
B 03536	00122389	1322 N Wabash	120.00	1
D 17920	00219148	5512 W Central	120.00	6
C 29049	00174393	3823 E Cessna	120.00	3

D 027810001	00201961	1740 S Meridian	120.00	4
D 12971	00214165	2404 W Greenfield	120.00	4
D 07529	00208432	2314 W Lotus	120.00	4
D 00705	00199352	831 S Dodge	120.00	4
A 11202	00112020	122 W Patterson	120.00	3
B 13899	00133612	5589 S Mosley	120.00	3
B 12361	00132511	4518 S Laura	120.00	3
B 10522	00130769	2825 S Pattie	120.00	3
B 12427	00132578	4741 S Lulu	120.00	3
B 07868	00127506	1302 S Greenwood	120.00	1
C 17706	00163489	924 S Edgemoor	120.00	3
C 03144	00139161	1013 N Estelle	120.00	1
A 08112	00108681	127 W Aley	120.00	6
A 01636	00100935	1615 N Park Pl	120.00	6
A 01639	00100938	1632 N Fairview	120.00	6
A 041790002	00103722	1244 N Perry	120.00	6
D 17820	00219043	801 N Doris	120.00	6
D 18113	00219364	629 N Hoover	120.00	4
D 18344	00219618	5707 W Franklin	120.00	5
D 17574	00218801	5806 W Newell	120.00	5
D 35599	00237274	1615 N Covington	120.00	5
D 046110001	00204401	1046 S Fern	120.00	4
B 06339	00125806	2211 S Santa Fe	120.00	3
B 06338	00125805	2207 S Santa Fe	120.00	3
C 22360	00167848	2628 S Rose Marie Ct	120.00	3
A 01221	00100487	1304 Nwaco	120.00	6
A 01219	00100485	320 W 12th	120.00	6
A 015640001	00100855	V/L SE corner of 11th & Market	120.00	6
C 03123	00139134	1036 N Poplar	120.00	1
C 03606	00139728	1607 N Estelle	120.00	1
D 05642	00205911	V/L at 1625 C Vine	120.00	4
D 11263	00212432	3522 S Osage	120.00	4
B 08730	00128685	1315 E Central	120.00	1
B 009250001	00119474	1320 N Mosley	120.00	6
B 03025	00121740	915 N Ohio	120.00	1
B 03023	00121738	3rd V/L N of 913 N Ohio	120.00	1
B 03520	00122373	1223 N Ohio	120.00	1
C 01514	00137207	2037 N Minneapolis	120.00	1
C 011120005	00136286	V/L N of 1617 N Ash	120.00	1
C 00771	00135845	V/L N of 1014 N Ash	120.00	1
C 01192	00136413	V/L N of 1502 N Madison	120.00	1
C 012410001	00136514	1701 N Grove	120.00	1
C 104300001	00155217	V/L S of 1717 N Poplar	120.00	1
C 21047	00166462	2361 N Poplar	120.00	1
C 20976	00166391	NE corner of 2nd & Green	120.00	1
C 04764	00141031	1953 N Chautauqua	120.00	1
C 15654	00161219	923 N Crestway	120.00	1

D 09623	00210808	3901 W Zoo Blvd	120.00	6
A 04932	00104834	1837 N Heiserman	120.00	6
A 01037	00100290	1065 N Waco	120.00	6
B 01748	00120350	1731 N Santa Fe	1,120.00	6
D 365410001	00238381	8803 W Westlawn	120.00	5
D 03577	00203174	432 S Chase	120.00	4
D 038600001	00203509	144 S Edwards	120.00	4
D 00559	00199049	330 S Elizabeth	120.00	4
D 04762	00204568	1231 S Elizabeth	120.00	4
D 11003	00212174	3202 S Millwood	120.00	4
B 07681	00127297	1338 S Ida	120.00	1
B 09919	00130140	2203 S Greenwood	120.00	3
C 29211	00174558	V/L N of 3373 Roseberry Ct	120.00	3
C 29808	00175170	3120 S Davidson	120.00	3
C 29236	00174583	2748 S Vassar	120.00	3
C 26562	00171992	2301 N Chautauqua	120.00	1
C 26563	00171993	2302 N Erie	120.00	1
A 02565	00101999	2015 N Wellington Pl	120.00	6
A 02564	00101998	2019 N Wellington Pl	120.00	6
A 02296	00101711	2029 N Wellington Pl	120.00	6
A 02295	00101710	2037 N Wellington Pl	120.00	6
A 03370000A	00102956	2732 N Waco	120.00	6
A 02515	00101941	1840 N Jackson	120.00	6
A 02519	00101945	1826 N Jackson	120.00	6
C 011770001	00136387	1431 N Madison	120.00	1
D 02821	00202019	V/L N of 1807 S Everett	120.00	4
D 0021500UP	00198203	1208 w 47th S	165.50	4
B 088830001	00128997	V/L N of 1133 N Wabash	120.00	1
B 03542000A	00122399	V/L S of 1246 N Wabash	120.00	1
B 03417	00122268	V/L S of 1341 N Cleveland	120.00	1
C 013000001	00136616	V/L S of 1652 N Hydraulic	120.00	1
C 010900001	00136253	1602 N Piat	120.00	1
C 01098	00136265	V/L N of 1446 N Piatt	120.00	1
C 36756	00181720	NE corner of 2nd & Piatt	120.00	1
C 00770	00135844	V/L S of 1036 N Ash	120.00	1
C 00742	00135740	705 N Grove	120.00	1
C 01246	00136520	1625 N Grove	120.00	1
C 03586	00139706	2505 E 15th	120.00	1
C 02808	00138791	1258 N Green	120.00	1
C 02809	00138792	SE corner of 12th & Green	120.00	1
C 027910001	00138772	NW corner of 11th & Green	120.00	1
C 03131	00139144	1055 N Green	120.00	1
C 10481	00155363	4825 E Pine	120.00	1
C 105180003	00155431	654 N Harding	120.00	1
C 10463	00155328	5202 E Pine	120.00	1

Published in the Wichita Eagle on April 26, 2013

ORDINANCE NO. 49-489

AN ORDINANCE MAKING A SPECIAL ASSESSMENT TO PAY FOR  
THE COST OF **CUTTING WEEDS** IN THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF  
WICHITA, KANSAS:

SECTION 1. That the sums set opposite the following lots, tracts, pieces and  
parcels of land or ground, herein specified, be and the same are hereby levied to pay the cost of  
cutting weeds in the City of Wichita, Kansas in the year 2013:

**Legal of Parcel in Benefit District**

**Assessment**

E 105 FT LOTS 926-928-930-932 WACO AVE. GREIFFENSTEIN'S 7TH. ADD.	120.00
E 39 1/2 FT LOT 1201 WACO AVE. LEWELLEN ADD.	120.00
LOT 1203 & S 1/2 LOT 1205 WACO AVE. LEWELLEN ADD.	120.00
LOTS 246-248 EXC E 45 FT MARKET ST. HYDE & FERRELL'S ADD.	120.00
LOTS 86-88 PARK PLACE POWELL'S ADD.	120.00
LOT 69 & N 15 FT LOT 71 FAIRVIEW AVE. POWELL'S ADD.	120.00
LOTS 89-91 FAIRVIEW AVE. POWELL'S ADD.	120.00
LOTS 9-10 EXC W 8 FT WATER ST. SPRINGATE ADD.	120.00
LOTS 11-12 EXC W 8 FT WATER ST SPRINGATE ADD.	120.00

LOTS 58-60 BLOCK 6 CAREY PARK ADD.	120.00
LOTS 74-76 BLOCK 6 CAREY PARK ADD.	120.00
S 1/2 LOT 2-ALL LOT 3 EXC W 8 FT WATER ST. ROBERTSON'S 5TH. ADD.	120.00
LOT 4 EXC W 8 FT & N 1/2 LOT 5 EXC W 8 FT WATER ST. ROBERTSON'S 5TH. ADD.	120.00
LOTS 1-2 LAWRENCE AVE. SECOND WILSON'S ADD.	120.00
LOTS 22-24 WACO AVE. MC TAGGART'S ADD.	120.00
LOTS 226-228 & S 1/2 LOT 230 PERRY AVE. RIVERSIDE ADD.	120.00
LOTS 1114-1116-1118 BITTING AVE. GREIFFENSTEIN'S 12TH. ADD.	120.00
LOTS 41-43 BLOCK 1 BOYD'S EAST RIVERSIDE ADD.	120.00
LOTS 51-53 RIVERSIDE NOW HEISERMAN AVE. NORTH RIVERSIDE ADD.	120.00
LOT 8 MAIN ST. BETHEL'S ADD.	120.00
N 2/3 LOT 76-ALL LOT 78 WATER ST TILFORD'S ADD.	120.00
LOTS 157-158 NORTH LAWN ADD.	120.00
W 62 FT LOT 4 HENRY JONES ADD.	120.00
N 100 FT LOT 2 BLOCK B RIVERDALE ADD.	120.00

LOTS 28 THRU 31 EXC W 25 FT FOR ST & LOTS 47 THRU 50 EXC E 5 FT FOR ST & VAC ALLEY BETWEEN & 23 FT SURP. ADJ ON S EXC COND. CASE 84C-2866 HARGIS & RUBERT ADDITION	120.00
LOTS 3-5-7-9-11 5TH NOW SANTA FE DEFFENBAUGHS ADD	1120.00
LOTS 25-27 OHIO AVE. MOORE'S ADD.	120.00
LOTS 33-35 OHIO AVE MOORE'S ADD.	120.00
LOTS 56-58 MATHEWSON AVE. GETTO'S ADD.	120.00
LOTS 65-67 OHIO AVE. BURLEIGH'S 3RD. ADD.	120.00
LOTS 30-32 WABASH AVE. BURLEIGH'S 3RD. ADD.	120.00
LOTS 19-21 UNION NOW NEW YORK AVE. MILFORD'S REPLAT	120.00
LOTS 5-7 5TH. NOW SANTA FE ROCK ISLAND 3RD. ADD.	120.00
LOTS 9-11 5TH. NOW SANTA FE AVE. ROCK ISLAND 3RD. ADD.	120.00
LOTS 78-80 IDA AVE. LINCOLN ST. ADD.	120.00
LOTS 50-52 FANNIE AVE. LINCOLN ST. ADD.	120.00
LOTS 2-4 CLEVELAND AVE. MATHEWSON MANOR ADD.	120.00
LOTS 13-15 PATTIE AVE. WALTER MORRIS & SON'S 5TH. ADD.	120.00
S 80 FT OF TRACT BEG 350 FT W NE COR SE 1/4 S 360 FT W TO CTR CREEK NE TO N LI SE 1/4 E TO BEG EXC ST SEC 9-27-1E	120.00
E 200 FT LOT 12 CAUTHORN ADD	120.00

LOT 3 A.C. GOLDEN 3RD. ADD.	120.00
LOT 5 BLOCK 5 SCHRADER BROS. 2ND. ADD.	120.00
LOT 2 BLOCK C WYATT ADD.	120.00
LOT 4 BLOCK 1 IVES ADD	120.00
LOT 20 BLOCK A RIVERSIDE THIRD ADD.	120.00
LOTS 37-39 ASH ST. STITES BROS. 2ND. ADD.	120.00

SECTION 2. That the sums set opposite the following lots, tracts, pieces and parcels of land or ground, herein specified, be and the same are hereby levied to pay the cost of cutting weeds in the City of Wichita, Kansas in the year 2013:

LOTS 26-28 NORRIS NOW ASH ST. SOLOMONS 2ND. ADD.	120.00
LOTS 144-145 ROSENTHAL'S 2ND. ADD.	120.00
S 20 FT LOT 73-ALL LOT 75 ASH ST. LOGAN ADD.	120.00
LOTS 2-4 STRONG NOW ASH ST. LOGAN ADD.	120.00
LOTS 161-163 CAMPBELL NOW MADISON AVE LOGAN ADD.	120.00
LOTS 126-128-130-132 MADISON AVE. LOGAN ADD.	120.00
LOTS 39-41-43-45 GROVE ST. LOGAN ADD.	120.00
LOTS 65-67 MINNEAPOLIS AVE. PARKVIEW ADD.	120.00

LOTS 33-35 BLOCK 2 ESTERBROOK PARK ADD.	120.00
LOT 12 & S 10 FT LOT 14 BLOCK 3 ESTERBROOK PARK ADD.	120.00
N 15 FT LOT 14-ALL LOT 16 BLOCK 3 ESTERBROOK PARK ADD.	120.00
LOTS 5-7 GOETHE NOW ESTELLE AVE. FAIRMOUNT ORCHARDS ADD.	120.00
LOTS 96-98 & N 20 FT LOT 100 HOLYOKE AVE. FAIRMOUNT ADD.	120.00
LOTS 110-112 HOLYOKE AVE. FAIRMOUNT ADD.	120.00
LOTS 6-8 BLOCK 2 COLLEGE TERRACE ADD.	120.00
LOTS 21-23 JOHNSON NOW KANSAS AVE. BLACK'S ADD.	120.00
LOTS 133-135 CLIFTON AVE. INDIANA SUB.	120.00
LOT 16 BLOCK H LONGVIEW TERRACE	120.00
LOT 6 BLOCK 2 PARKMORE ADD.	120.00
W 10 FT LOT 24 ALL LOT 25 & E 11 FT LOT 26 BLOCK 4 SHADYBROOK ADD.	120.00
LOT 13 BLOCK B HEALY & NEWMAN ADD.	120.00
LOT 5 BLOCK 1 PURCELL'S 5TH. ADD.	120.00
LOT 3 BLOCK 2 KEN-MAR ADD.	120.00



LOT 9 BLOCK R AUDREY MATLOCK HEIGHTS 1ST. ADD.	120.00
LOT 2 BLOCK U AUDREY MATLOCK HEIGHTS 1ST. ADD.	120.00
BEG SW COR RES. B N 178.55 FT E 150.86 FT SW 119.08 FT SWLY 95.02 FT TO SLY LI RES B WLY ALG SLY LI TO BEG EASTRIDGE 3RD. ADD.	120.00
LOT 15 BLOCK 3 CLASSEN PARKED ADD.	120.00
LOT 12 DUNHAM'S 2ND. ADD.	120.00
S 51 FT LOT 7 BLOCK C REPLAT OF PT OF HILLSIDE GARDENS ADD.	120.00
S 51 FT LOT 8 BLOCK C REPLAT OF PT OF HILLSIDE GARDENS ADD.	120.00
LOT 62 BLOCK E PLANEVIEW SUB. NO. 1	120.00
LOT 27 BLOCK J PLANEVIEW SUB. NO. 1	120.00
LOT 52 BLOCK J PLANEVIEW SUB. NO. 1	120.00
LOT 8 BLOCK H PLANEVIEW SUB. NO. 2	120.00
ALL LOT 14 & LOT 15 EXC BEG SW COR NELY 150 FT TO SE COR N 2.92 FT SWLY PAR. TO S LI 65 FT SWLY 85 FT TO BEG BLOCK B WASHINGTON HEIGHTS ADD.	120.00
LOT 27 BLOCK 1 WOODLAWN PLACE 4TH. ADD.	120.00
LOT 2 & E 30 FT VAC ST ADJ ON W BLOCK 1 EAST KELLOGG MINI STORAGE ADD VACATION ORDER V-1819 FILM 1456 PAGE 0592 .	183.50
LOTS 15-17 EXPOSITION AVE. LAWRENCE'S 3RD. ADD.	120.00

LOTS 16-18 ELIZABETH AVE. LAWRENCE'S 4TH. ADD.	120.00
LOTS 31-33 & S 10 FT LOT 35 ROBERT NOW DODGE AVE LAWRENCE'S 7TH. ADD.	120.00
LOTS 33-35 EXC W 10 FT FOR ST CCA-53868 BLOCK H SOUTH UNIVERSITY PLACE ADD.	120.00
LOTS 6-8 CHASE ST STEWART'S SUB OF RES A	120.00
LOTS 23-25 EDWARDS AVE ROYAL'S SUB	120.00
LOTS 28-30-32 BLOCK 4 REPLAT PT OF JOHN MC CORMICK'S ADD.	120.00
LOT 25 BLOCK 18 REPLAT PART OF JOHN MC CORMICK'S ADD.	120.00
LOTS 19-21-23 EXC ST VINE ST BLOCK G PRINCESS ADD	120.00

SECTION 3. That the sums set opposite the following lots, tracts, pieces and parcels of land or ground, herein specified, be and the same are hereby levied to pay the cost of cutting weeds in the City of Wichita, Kansas in the year 2013:

LOT 23 BLOCK 6 PAWNEE PARK ADD.	120.00
LOT 1 & VAC 10TH. ST. ADJ ON N BLOCK 5 GOLDEN GARDENS ADD.	120.00
LOT 1 BLOCK 1 CARLAN'S ADD.	120.00
LOT 4 BLOCK 11 BRENTWOOD ADD.	120.00
LOT 17 BLOCK 11 FRUITVALE PARK ADD.	120.00

LOT 26 BLOCK 7 1ST ADD. TO SOUTHWEST VILLAGE	120.00
LOT E WEST ST LOUIS GARDENS 2ND. ADD.	120.00
LOT 7 BLOCK F BARNETT'S ADD.	120.00
LOT 6 BLOCK B PATTERSON GARDENS ADD.	120.00
S 125 FT N 375 FT LOT 4 CENTRAL ACRES	120.00
LOT 1 BLOCK 4 AVERY ADD.	120.00
LOT 1 EXC S 9.9 FT TO CITY FOR ST. WESTAIR ADDITION	120.00
LOT 19 BLOCK 10 ECHO HILLS ADD.	120.00
E 55.29 FT LOT 1 BLOCK G JAMESBURG PARK ADD.	120.00
LOT 40 BLOCK 1 STONEBRIAR ADD.	120.00
LOT 15 BLOCK A REPLAT OF PT OF INTERURBAN PLACE ADD.	120.00
LOT 18 BLOCK 3 APPLEWOOD FARMS ADD.	120.00
LOT 7 BLOCK 7 APPLEWOOD FARMS ADD.	138.50
LOT 21 BLOCK 5 SAWMILL CREEK ADD.	120.00
ALL LOT 13 & LOT 14 EXC BEG NE COR S 100 FT TO SE COR W 113.87 FT NE 137.66 FT TO CUR ELY ALG CUR 32.6FTTO BEG BLOCK 6 SAWMILL CREEK ADDITION	120.00

THAT PART LOT 14 BEG NE COR S 100FT TO SE COR W 113.87 FT NE 137.66 FT TO CUR ELY ALG CUR 32.6 FT TO BEG & LOT 15 EXC E 48 FT BLOCK 6 SAWMILL CREEK ADDITION	120.00
E 37 FT LOT 16 & LOT 17 EXC E 26 FT BLOCK 6 SAWMILL CREEK ADD.	120.00
ALL LOT 19 & E 15 FT LOT 18 BLOCK 6 SAWMILL CREEK ADD.	120.00
LOT 22 BLOCK 6 SAWMILL CREEK ADD.	120.00
LOT 43 BLOCK B RIVENDALE ADD.	120.00
LOT 19 BLOCK C RIVENDALE ADD.	120.00
LOTS 17-19-21-23 CLEVELAND AVE. BURLEIGH'S 3RD. ADD.	120.00
LOTS 62-64 WABASH AVE. BURLEIGH'S 3RD. ADD.	120.00
BEG 132 FT S & 309 FT E NW COR SW 1/4 NE 1/4 S 55 FT W 135 FT N 55 FT E 135 FT TO BEG SEC 16-27-1E	120.00
LOTS 65-67-69 STITES NOW GROVE ST. STITES BROS. 4TH. ADD.	120.00
LOTS 22-24 NORRIS NOW ASH ST. SOLOMONS 2ND. ADD.	120.00
LOTS 90-92-94 PIATT AVE. LOGAN ADD.	120.00
LOTS 146-148-150 PIATT AVE. LOGAN ADD.	120.00
LOTS 67-69 TYLER NOW GROVE ST. LOGAN ADD.	120.00
LOTS 55-57-59 BLOCK 5 KANSAS ADD.	120.00

E 81 FT LOTS 93-95 GREEN ST. FAIRMOUNT PARK ADD.	120.00
LOTS 50-52 GREEN ST. FAIRMOUNT PARK ADD.	120.00
LOTS 54-56 GREEN ST. FAIRMOUNT PARK ADD.	120.00
LOTS 42-44 BLOCK 2 ESTERBROOK PARK ADD.	120.00
W 74 FT LOTS 2-4-6-8 GREEN AVE. FAIRMOUNT ORCHARDS ADD.	120.00
LOTS 37-38 BLOCK 2 EAST HIGHLANDS ADD.	120.00
LOT 1 BLOCK 4 EAST HIGHLAND ADD.	120.00
LOTS 43-44 BLOCK 6 EAST HIGHLANDS ADD.	120.00
LOT 1 BLOCK 1 HAMPTON ADD.	120.00
E 549 FT S 319.17 FT SE 1/4 SE 1/4 EXC E 225 FT & EXC S 50 FT FOR RD SEC 18-28-1E	165.50
THAT PART LOT 2 LY SE OF ORIENT AVE. & ALL LOT 4 EXC ORIENT AVE. BLOCK K SOUTH UNIVERSITY PLACE ADD.	120.00

SECTION 4. This ordinance shall take effect and be in force from and after its passage by the city council and publication once in the official City newspaper.

ADOPTED at Wichita, Kansas, this **23th** day of **April, 2013**.

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Carl Brewer, Mayor

ATTEST:

---

Karen Sublett, City Clerk

(SEAL)

Approved as to form

:

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Gary E. Rebenstorf, Director of Law

**City of Wichita  
City Council Meeting  
April 16, 2013**

**TO:** Mayor and City Council

**SUBJECT:** Reinstatement and Extension of the Letter of Intent for Industrial Revenue Bonds (Bombardier Learjet) (District IV)

**INITIATED BY:** Office of Urban Development

**AGENDA:** Consent

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**Recommendation:** Approve the reinstatement and extension of the Letter of Intent for Industrial Revenue Bonds.

**Background:** On November 6, 2007, the City Council approved a Letter of Intent (“LOI”) for Industrial Revenue Bonds (“IRBs”) in an amount not-to-exceed \$79,188,000 for Bombardier Learjet (“Learjet”) to finance expansion and modernization of its aircraft manufacturing plant located at Mid-Continent Airport in west Wichita for a five year term. The City Council also approved a 100% five-plus-five year property tax abatement on bond-financed property. The City Council extended the LOI through the end of 2012 to accommodate Learjet’s second 2012 bond issue. At the expiration of the LOI on December 31, 2012, Learjet had an unused balance of approximately \$33,672,992.98 from the 2007 LOI. Learjet is now requesting that the 2007 LOI be reinstated and extended through December 31, 2013 to accommodate the issuance of IRBs for its 2013 expansion.

**Analysis:** Learjet is a wholly owned subsidiary of Bombardier, Inc. (“Bombardier”), a Canadian corporation headquartered in Montreal, Quebec. Bombardier is engaged in the design, development, manufacturing and marketing of transportation equipment, aerospace and defense products. Learjet is a member of the Bombardier Aerospace Group, and is engaged in the manufacturing and sales of business jet aircraft including the Learjet 40, the Learjet 60, the Learjet 45, and the newest models, the Learjet 70, 75 and 85. Learjet’s principal manufacturing facilities, corporate and marketing offices and the Bombardier Flight Test Center are located at One Learjet Way on Mid-Continent Airport.

The current expansion of Bombardier Learjet includes the establishment of a corporate Center of Excellence (“COE”) for aerospace engineering and for information technology, expansion of the Bombardier Flight Test Center (“BFTC”) and construction of new facilities. Learjet expects to add 450 new jobs over seven years at its Wichita plant as a result of this expansion, over and above the 600 new Learjet 85 jobs that were committed in exchange for State of Kansas incentives. The total investment relating to the current expansion is \$52,700,000. As an incentive to ensure this expansion takes place, in 2011 the City and Sedgwick County provided economic development grants in the amount of \$1,000,000 each to pay the cost of constructing new parking lots needed for the expansion. The City’s grant agreement included the provision of tax abatements through the issuance of IRBs.

**Financial Considerations:** Bombardier Learjet agrees to pay all costs of issuing the bonds and agrees to pay the City’s \$2,500 annual IRB administrative fee for the term of the bonds. Learjet will request a 100% tax abatement of ad valorem property taxes on any bond financed property. Bond-financed purchases are also exempt from state and local sales tax.

A cost/benefit analysis of the current expansion, based on both the economic development grant and IRB tax abatements was performed by the Wichita State University Center for Economic Development and Business Research in 2011, resulting in the following ratios of benefit to costs:

City General Fund	1.26 to one
Sedgwick County	1.23 to one
USD #259	1.16 to one
State of Kansas	19.29 to one

**Legal Considerations:** Bond documents required for the issuance of the bonds will be prepared by bond counsel. The form of bond documents will be subject to review and approval by the Law Department prior to the issuance of any bonds.

**Recommendations/Actions:** It is recommended that the City Council approve the reinstatement and extension of the Letter of Intent for Industrial Revenue Bonds through December 31, 2013.

**Attachments:** None



City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** Emergency Sanitary Sewer Repairs at Amidon and 40th Street North (District VI)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

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**Recommendation:** Ratify and approve the emergency sanitary sewer repairs.

**Background:** The City of Wichita owns a sanitary sewer force main running from the pump station at 53<sup>rd</sup> Street North and Meridian, to roughly 36<sup>th</sup> Street North and Seneca. Near the intersection of Amidon and 40<sup>th</sup> Street North, this force main has two air release structures that were collapsing from the corrosion inside the structures. One structure was so badly deteriorated that it was immediately removed by Sewer Maintenance on March 20, and a temporary pipe was installed.

**Analysis:** Air release mechanisms are vital to the performance of a force main system. Without the removal of air at the high points in the pipe, an air-lock pocket can develop which could block the flow of sewage and result in complete failure of the system. Both air release structures needed to be replaced sooner than the formal bid process would have allowed. Due to the size of the project, an outside contractor had to be hired.

**Financial Considerations:** Staff contacted eight contractors for informal bids and received six responses. Dondlinger Construction submitted the lowest bid at \$33,800. The 2011-2020 adopted Capital Improvement Plan includes funding for this type of project in the S-4 Reconstruction of Old Sanitary Sewers fund, the budget for which was approved by the City Council on December 18, 2012. The project will be funded from future sewer revenue bonds and/or Sewer Utility cash reserves.

**Legal Considerations:** City Ordinance 2.64.020(a), "Emergencies," expressly authorizes the City Manager to approve work to be performed for emergency repair of critical infrastructure facilities by an outside contractor without formal bidding. Repair of stoppages in the sanitary sewer system is an example expressly described in the ordinance for emergency approval. The City Manager approved proceeding with the project on March 21, 2013. The critical repairs have been completed, but the non-critical site restoration work awaits City Council ratification and approval.

**Recommendations/Actions:** It is recommended that City Council ratify the City Manager's Emergency approval of the repairs, authorize completion of the project, and authorize the necessary signatures.

**Attachments:** Memo to City Manager.



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INTEROFFICE MEMORANDUM

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**TO:** Robert Layton, City Manager  
Through Alan King, Director of Public Works & Utilities

**FROM:** Gary Janzen, City Engineer *XJ ADK*

**DATE:** March 21, 2013

**SUBJECT:** Emergency Sanitary Sewer Repairs / Amidon & 40<sup>th</sup> Street North

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The City of Wichita has a 10" sanitary sewer force main running from the pump station at 53<sup>rd</sup> Street North and Meridian to roughly 36<sup>th</sup> Street North and Seneca. Near the intersection of Amidon and 40<sup>th</sup> Street North, this force main has two air release structures that are collapsing from the corrosion inside the structures. One structure was so badly deteriorated that it was immediately removed by Sewer Maintenance on March 20th and a temporary pipe was installed.

Air release mechanisms are vital to the performance of a force main system. Without the removal of air at the high points in the pipe, an air-lock pocket can develop which could block the flow of sewage and result in complete failure of the system. Both air release structures need to be replaced sooner than the formal bid process will allow. An outside contractor will need to be hired and staff will contact several contractors to take informal bids to repair the sewer.

The cost is estimated to be \$50,000.00. Funding will be from CIP project S-4, Reconstruction of Old Sanitary Sewers. Inspection of the project will be coordinated with Public Works Engineering.

I request that you declare this a Public Exigency, which is defined under City Code, Section 2.64.020(c), as an instance when public exigency will not permit the delay incident to advertising, as determined and approved by the City Manager. An approval line has been provided if you concur with this request. A subsequent agenda item will be prepared to obtain Council acknowledgement of this declaration action.

A handwritten signature in cursive script, appearing to read 'Robert Layton', written over a horizontal line.

Robert Layton, City Manager

-lml

City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** Employee Health and Benefit Consultant (All Districts)

**INITIATED BY:** Department of Finance

**AGENDA:** Consent

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**Recommendation:** Approve the recommendation of the Staff Screening and Selection Committee.

**Background:** The City spends \$34 million annually for health insurance and related benefits. It is one of the largest areas of expense in the operating budget, and among the most complex. In 2008, the Health Insurance Advisory Committee and the City Council selected an independent health and benefits consultant to assist in the process of choosing an employee health insurance and benefits plan. That contract expires July 1, 2013, and a new competitive Request for Proposal (RFP) was issued.

The RFP was issued through the City's Purchasing division. The RFP requests the vendor to:

- Review the existing benefit plans and make recommendations for cost-effective improvements;
- Survey and prioritize health care and benefit plan needs;
- Establish strategic goals and objectives for City health care and benefit plans;
- Develop competitive bid specifications for the 2014 and 2017 City Benefits Plan programs (such as dental, group term life, disability etc.) and determine if these products are still viable and competitive;
- Screen vendors and assist with final recommendations of providers and contract terms;
- Provide a Self-Insurance cost analysis monthly and provide premium equivalents annually;
- Assist the City to remain compliant with regulatory mandates;
- Assist the City with regard to improving development of its employee wellness program;
- Develop competitive bid specifications for a Third Party Administrator (TPA) for the Self-Insured Health Plan for implementation in 2015 and 2018, screen vendors and assist with final recommendations of providers and contract terms.

A summary of the Request for Proposal evaluation criteria include:

- The firm has experience and expertise based on past projects to carry out the project;
- The quality of the firm's professional staff assigned to the project is commensurate with project needs;
- The firm has experience with health and benefit plans, particularly as they relate to municipal corporations;
- The firm has experience evaluating and comparing both standard and value based designed health plans;
- The firm has working knowledge of the local medical community and demonstrable familiarity with a local business health care coalition or similar organization;
- The firm has expert knowledge with regard to the Patient Protection and Affordable Care Act and has the resources to advise and assist the City with implementation.

A bid notice was published in the official newspaper on February 8, 2013, the RFP was placed on the City's e-Procurement web site and notices were mailed to 132 firms across the United States. A total of nine written proposals were received.

An eleven member Staff Screening and Selection Committee was created to review the proposals. The Committee was comprised of representatives from: City Manager's Office; Department of Finance; Human Resources; Law Department; and the five employee bargaining groups (Employees Council; Fraternal Order of Police; International Association of Firefighters, Service Employees Union and Teamsters). The Staff Screening and Selection Committee also comprised a majority of the members of the Health Insurance Advisory Committee.

The Staff Screening and Selection Committee reviewed and evaluated all nine written proposals for a health and benefits consultant and independently ranked each proposal based on the ranking criteria listed in the RFP. The top three firms were selected to make detailed presentations to the Staff Screening and Selection Committee. The detailed presentations were held March 20 and 22, 2013. Based on the proposals and detailed presentations, the Committee independently ranked the firms using the ranking criteria listed in the RFP.

**Analysis:** The Staff Screening and Selection Committee recommends award of the contract to the firm of IMA, Inc. a Wichita company. Selection was based on IMA's experience on similar projects, staff expertise, as well as price. IMA submitted the lowest cost fee of the final three firms at \$93,000 per year for the first two years, followed by \$46,500 for six months, followed by three years guaranteed at \$95,790 per year. IMA proposed using a team of subject matter experts versed in benefit compliance, law, regulatory compliance, underwriting, finance and wellness components related to employee benefit programs. In addition, IMA's due diligence review indicates the following:

- IMA was selected as a recipient of Risk & Insurance Magazine's Power Broker Awards in 2010 and 2012;
- Was selected as National Underwriter's Agency of the Year in 2010;
- Received the Wichita Business Journal's 2010 award for Best in Business;
- Is the 9<sup>th</sup> largest privately held, employee owned broker in the US;
- Is made up of 475 employee-owners with four corporate offices.

**Financial Considerations:** The contract would be for two consecutive years at a cost of \$93,000 per year, followed by six months at a cost of \$46,500, followed by three additional years at a cost of \$95,790 per year. Funds are budgeted in the Group Health Insurance Fund to pay for a consultant.

**Legal Considerations:** The contract has been reviewed and approved as to form by the Law Department.

**Recommendation/Action:** It is recommended the City Council approve the contract with IMA, Inc. for one (1) year with an additional one year option to renew, followed by a six month renewal term followed by a period of three additional one-year terms, and authorize the necessary signatures.

**Attachments:** Contract

## **EMPLOYEE HEALTH AND BENEFIT CONSULTING AGREEMENT**

**THIS AGREEMENT** is entered into this \_\_\_\_\_ day of April, 2013 by and between the City of Wichita, Kansas (hereinafter referred to as the City) and IMA, Inc. (hereinafter referred to as Consultant).

**WHEREAS**, the City requires professional, comprehensive health and benefit consulting services listed under the Scope of Services, instructions and timelines identified in Request for Proposal No. FP340008; and,

**WHEREAS**, the City is authorized by law to employ professional consulting services for health and benefits; and,

**WHEREAS**, the Consultant has demonstrated the knowledge and experience to undertake the Scope of Services on behalf of the City,

**WHEREAS**, the Consultant has submitted a proposal in response to the City's Request for Proposal No. FP340008, dated February 8, 2013 and has been selected in a competitive process.

**NOW, THEREFORE**, the contracting parties agree as follows:

**SECTION 1. SCOPE OF SERVICES.** Consultant shall provide to the City all those commodities and/or services specified in its response to Formal Proposal Number – FP340008, which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications, plans and addenda, provided by the City of Wichita as part of the proposal letting process for Formal Proposal – FP340008, shall be considered a part of this Agreement and is incorporated by reference herein. The pertinent scope of services is restated as Exhibit B.

Consultant agrees to designate a Project Manager for the coordination of the work that this Agreement requires to be performed.

The Consultant agrees to advise the City, in writing, of the person designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this Agreement. The Consultant shall also advise the City of any changes in the person designated as Project Manager.

The designated Project Manager will coordinate all aspects of this Project through the City's Project Manager. Any requests from any other staff agency, which would affect the Consultant's time or expense relative to this Project, MUST be approved by the City's Project Manager.

The Consultant further agrees:

- A. To attend meetings with the City and other local, State and Federal agencies as necessitated by Exhibit B, including the City's Health Insurance Advisory Committee and/or the Wichita City Council.
- B. To make available during regular office hours upon reasonable notice with as little disruption as possible, all work such as the City may wish to examine periodically during performance of this Agreement.
- C. To save and hold the City harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of the Consultant, its agents, servants, employees, or sub-consultants occurring in the performance of its services under this Agreement.
- D. To accept compensation for the work herein described in such amounts and at such periods as provided in **SECTION 9. PAYMENTS** and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with the tasks as outlined in **SCOPE OF SERVICES**, Exhibit B.
- E. To complete the services to be performed by the Consultant within the time allotted for the project in accordance with **SECTION 2. TIME OF PERFORMANCE** and the schedule in Exhibit B except that the Consultant shall not be responsible or held liable for delays occasioned by acts of God, or the actions or inactions of the City or other delays not reasonably within the Consultant's control.
- F. Covenants and represents to be responsible for the professional and technical accuracy and the coordination of all specifications, plans, studies, reports and/or other work or material furnished by the consultant under this Agreement.
- G. The consultant further agrees, covenants and represents, that all specifications, plans, studies, reports and other work or material furnished by Consultant, its agents, employees and sub-consultants, under this Agreement, including any addition, alterations or amendments thereof, shall be substantially free from material negligent errors or omissions.

The City agrees to:

- A. To furnish all available data pertaining to the Project now in the City's files at no cost to the Consultant. Confidential material so furnished will be kept confidential by the Consultant.
- B. To provide standards as required for the Project.
- C. To pay the Consultant for its services in accordance with the requirements of this Agreement.

- D. To provide the right-of-entry for Consultant's personnel in performing field surveys and observations.
- E. To designate a Project Manager for the coordination of the work that this Agreement requires to be performed. The City agrees to advise the Consultant, in writing, of the person designated as Project Manager with the issuance of the notice to proceed on the work required by this Agreement. The City shall also advise the Consultant of any changes in the person designated as Project Manager.
- F. To examine all studies, reports, specifications, proposals, work and other documents presented by the Consultant in a timely fashion.

**SECTION 2. TIME OF PERFORMANCE.** The services of Consultant are to commence as soon as practicable on the date of this Agreement, and shall be undertaken and completed pursuant to the Preliminary Project Plan/Timetable contained in Exhibit B, which may be amended by the City after consultation with the Consultant. The term of this Agreement shall be one year from the date of execution by the parties followed by one (1) one-year option, followed by a six month option, followed by three (3) one year options. The City agrees to notify the Consultant in writing whether it wishes to exercise any of the options to extend the Agreement sixty (60) days prior to termination of the Agreement.

### **SECTION 3. RECORDS, REPORTS AND INSPECTION**

#### **A. Establishment and Maintenance of Records.**

Consultant shall establish and maintain records as reasonably prescribed by the City (with respect to all matters covered by this Agreement). Unless otherwise specified in writing by the City, Consultant shall retain such financial records for a period of three (3) years after receipt of the final payment under this Agreement or termination of this Agreement.

**B. Documentation of Costs.** All costs with respect to the services per Exhibit B shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.

**C. Reports and Information.** Consultant, at such times and in such forms as the City may reasonably require, shall furnish to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Agreement. Consultant will submit said reports on the date(s) designated by the City. In addition, Consultant will submit all regularly required reports as itemized in Exhibit B on the due dates established therein.

**D. Audits and Inspections.** Consultant shall at any time during normal business hours and as often as the City may reasonably deem necessary make available to the City for examination all of its records and data with respect to all matters covered by this Agreement and shall permit the City or its designated authorized representative on reasonable notice, during normal business hours, and with the intent to minimize disruption to Consultant, to audit and inspect all invoices, materials, payrolls, records of personnel conditions of employment and other data relating to all matters covered by this Agreement.

**SECTION 4. CONFLICT OF INTEREST.** Members of the Board of the Consultant shall abstain from any action in regard to a pending matter before the Board which will affect any business in which such Board Member has a substantial interest as defined in K.S.A. 75- 4301.

**SECTION 5. DISCRIMINATION PROHIBITED.** No recipient or proposed recipient of any funds, services or other assistance under the provisions of this Agreement shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this Agreement on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Acts of 1964 Pub. L. 88-352). The Consultant further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements" as provided in Exhibit A attached hereto.

**SECTION 6. COMPLIANCE WITH LOCAL LAWS.** All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments with respect to the services per Exhibit B.

**SECTION 7. ASSIGNABILITY.** Consultant shall not assign any interest in this Agreement without prior written consent of the City.

**SECTION 8. COPYRIGHTS.** If this Agreement results in a book or other materials which may be copyrighted, the author is free to copyright the work, but the City reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use all copyrighted materials and all material which can be copyrighted.

**SECTION 9. PAYMENTS.**

**A. Total Payments.** Total payments to Consultant for the services in Exhibit B will not exceed \$93,000 per year for July 1, 2013 through June 30, 2015, \$46,500 from July 1, 2015 through December 31, 2015, and upon renewal, \$95,790 per year from January 1, 2016 through December 31, 2018. Consultant shall invoice and City shall timely pay invoices on a quarterly basis.

**B. Restriction on Disbursement.** No payment shall be disbursed to an approved sub-consultant of Consultant except pursuant to a written contract that incorporates by reference the general conditions of this Agreement.



**SECTION 10. TERMINATION CLAUSE.** Upon breach of the Agreement by Consultant, the City, by giving written notification fifteen (15) days in advance, may terminate this Agreement. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 21, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this Agreement.

The right is reserved to the City to terminate this Agreement for convenience, upon thirty (30) days written notice, provided, however, that in any case the Consultant shall be paid the reasonable value of the services rendered up to the time of the termination notice, and City approved winding-down activities on the basis of the provisions of this Agreement. All work pertaining to the Project shall become the property of the City upon completion or termination of the Consultant's services in accordance with this Agreement; and there shall be no restriction or limitation on their further use by the City. Provided, however, that the City shall hold the Consultant harmless from any and all claims, damages or causes of action which arise out of such further use without the participation of the Consultant. The Consultant may terminate this Agreement with sixty (60) days advance written notice to the City, but shall reasonably perform its duties, including City-designated winding-down activities, up to the effective termination date.

**SECTION 11. AMENDMENTS.**

**A. Changes.** To provide necessary flexibility for the most effective execution of this project, whenever both the City and Consultant mutually agree, changes in this Agreement may be effected by placing them in written form and incorporating them into this Agreement.

**B. City Council Approval.** Any changes in the approved budget must be requested and justified in writing. Changes over \$10,000 must be presented to and approved by the City Council.

**SECTION 12. NO ASSIGNMENT.** All services required herein will be performed by Consultant. No assignment of Consultant's duties shall be effective unless approved in writing by City.

**SECTION 13. INDEPENDENT CONTRACTOR.** The relationship of the Consultant to the City will be that of an independent contractor. No employee or agent of the Consultant shall be considered an employee of the City.

**SECTION 14. NO ARBITRATION.** The Consultant and the City shall not be obligated to resolve any claim or dispute related to the Agreement by arbitration. Any reference to arbitration in the Agreement is deemed void and deleted from such document.

**SECTION 15. RENEGOTIATION.** This Agreement may be renegotiated in the event alternate sources of funding become available during the term of this Agreement.

**SECTION 16. ANTITRUST LITIGATION.** For good cause, and as consideration for execution of this Agreement, Consultant, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by Consultant pursuant to this Agreement.

**SECTION 17. INSURANCE.** The Consultant shall procure and maintain such insurance during the term of this Agreement and any extensions thereof in the amounts and manner as provided as follows:

1. Comprehensive General Liability covering premises—operations, Product/Completed operations, Broad Form Property Damage, (Environmental) and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	\$500,000 each occurrence \$500,000 each aggregate
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Property Damage Liability	\$500,000 each occurrence \$500,000 each aggregate
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Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each occurrence \$500,000 each aggregate
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2. Automobile Liability - Comprehensive Form including all owned hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	\$500,000 each accident
Property Damage Liability	\$500,000 each accident

Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each accident
---	-------------------------

3. Workers' Compensation/Employers Liability for minimum limits of:  
Employers Liability \$100,000 each accident

4. Professional Liability \$1,000,000 each incident

The Consultant shall procure and maintain such insurance during the term of this Agreement and any extensions thereof will protect the Consultant from damages resulting from the negligent acts of the Consultant, its officers, employees and sub-consultants in the performance of the professional services rendered under this Agreement. Satisfactory Certificates of Insurance meeting the approval of the City Attorney shall be filed with the City before the time the

Consultant starts any work under this Agreement.

**SECTION 18. PARTIES BOUND** It is further agreed that this Agreement shall be binding upon the parties hereto and their successors and assigns.

**SECTION 19. WAIVERS** Neither party's review, approval or acceptance of, nor payment for, or performance of any of the work or services required to be performed by the other party under this Agreement shall be construed to operate as a waiver of any right under this Agreement or any cause of action arising out of the performance of this Agreement.

**SECTION 20. ADDITIONAL RIGHTS** The rights and remedies of parties provided for under this Agreement are in addition to any other rights and remedies provided by law.

**SECTION 21. THIRD PARTY BENEFICIARY** It is specifically agreed between the parties executing this Agreement, that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof the status of third party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

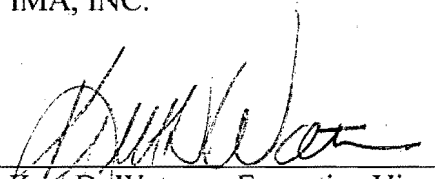
**SECTION 22. APPENDICES**. All exhibits referenced in this Agreement and all amendments of mutually agreed upon modification made by both parties are hereby incorporated as though fully set forth herein.

**EXHIBIT A - Non-discrimination and Equal Employment Opportunity Statement**

**EXHIBIT B – Scope of Services**

IN WITNESS WHEREOF, the parties have executed this Agreement on the 4<sup>th</sup> day of April, 2013.

IMA, INC.



Kurt D. Watson, Executive Vice  
President

4-4-2013

Date

**THE CITY OF WICHITA, KANSAS**  
By Direction of the City Council

\_\_\_\_\_  
Carl Brewer, Mayor

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

**Approved as to Form:**

\_\_\_\_\_  
Gary Rebenstorf, Director of Law

## **EXHIBIT A**

### **REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this Agreement, the contractor or subcontractor, Contractor or supplier of the City, by whatever term identified herein, shall comply with the following  
Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program  
Requirements:

- A. During the performance of this Agreement, the contractor, subcontractor, Contractor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or Contractor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The Contractor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  2. The Contractor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the Contractor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  3. The Contractor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the Contractor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the Contractor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
  4. The Contractor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subcontractor or subsupplier.
  5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, Contractors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those Contractors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the federal government or contract involving federal funds; provided that such contractor, subcontractor, Contractor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the federal agency involved.

## **EXHIBIT B**

### **SCOPE OF SERVICES**

The City has entered into new contract periods for non-health benefit and self-insurance medical and prescription services beginning in January 2013 with options to renew in 2014. The City of Wichita is requesting proposals for the provision of benefit consulting services for the following:

- Review existing benefit plans and make recommendations for cost-effective improvement for consideration by City management team.
- Survey and prioritize benefit plan needs.
- Establish strategic goals and objectives for long term health care and benefit plans.
- Develop and issue a competitive Request for Proposals (RFP) in calendar years 2014 and 2017 consistent with City procurement standards for all non-health benefit providers that meet the timetable listed herein below.
- Screen RFP responses and work with Staff Screening and Selection Committee to select firms to interview for final selection for all 2014 and 2017 non-health benefit plans.
- Assist with preparation and presentation of 2014 and 2017 non-health benefit plans to employee/union Health Insurance Advisory Committee.
- Assist with preparation and presentation of recommended 2014 and 2017 non-health benefit plans to City Council.
- Assist City staff as needed with 2014 and 2017 non-health benefit implementation.
- Assist City staff as needed with contract negotiations for all 2014 and 2017 non-health vendor contracts.
- Develop and issue a competitive Request for Proposals in calendar years 2015 and 2018 consistent with City procurement standards for all medical and prescription benefit providers that meet the timetable listed herein below.
- Screen RFP responses and work with Staff Screening and Selection Committee to select firms to interview for final selection for all 2015 and 2018 medical and prescription benefit plans.
- Assist with preparation and presentation of 2015 and 2018 medical and prescription benefit plans to employee/union Health Insurance Advisory Committee.
- Assist with preparation and presentation of recommended 2015 and 2018 medical and prescription benefit plans to City Council.
- Assist City staff as needed with 2015 and 2018 medical and prescription benefit implementation.
- Assist City staff as needed with contract negotiations for the 2015 and 2018 medical and prescription third-party administrator contracts.
- Review all health and prescription TPA self-insurance reports and provide analysis to City Management for proper operation of the self-insured health program.
- Develop annual "premium equivalents" based on sound actuarial principles for the self-insured health plan prior to the first Thursday in September of each year, using the format in Exhibit A as one of the supporting documents.
- Develop, prepare, and send an independent City of Wichita Self-Insurance Cost Analysis that includes the all of the elements in Exhibit B on a monthly basis to City management staff.
- Annually advise the City in writing during the first month of each year that the health



- plan meets the creditable coverage standards as required by the federal government.
- Provide the City of Wichita with pertinent ad hoc reports as requested.
- Prior to the start of a new policy year and on an annual basis, competitively market commercial health benefit stop insurance, presenting the City with financial and risk analysis, coverage options and competitive carrier bids.
- Advise, provide continued analysis including annual audit, if necessary, and assist City staff as needed to comply with the Patient Protection and Affordable Care Act (PPACA).
- Assist and advise City staff as needed to further develop its wellness program by providing current and relevant wellness data and strategies, assisting by communicating with the City's health partners for relevant information, data, third-party vendor and consultant generated reports.
- Timely advise City staff, and provide available analysis and comparison of all new and innovative value based healthcare benefit designs as they emerge on both a national and local basis.
- Timely advise City staff of relevant personnel, operational and structural changes within the local medical community.
- Provide timely periodic electronic newsletters or advisories as they concern employee benefits and government regulations.
- Assist the City with the annual open enrollment process

Consultants must specifically execute the following actions in 2013 and 2014 on a timetable established by the City. The Consultant can have input to the timetable, but much of the timetable is based on law, regulation or policy. All bidding must be undertaken through the City's Purchasing Division.

#### Self-Insured Health Plan

1. Review plan design and contract and make recommendations for change, updating of provisions and compliance with state and federal law.
2. Calculate "Premium Equivalents" in 2013 for Open Enrollment October 14, 2013 and full operation January 1, 2014.
3. Conclude Stop Loss marketing and provide the City recommendations by December 1, 2013, and annually thereafter.

#### Vision

1. Review plan design and contract and make recommendations for changing and updating provisions.
2. Competitively bid program in 2014 for operation for Open Enrollment October 14, 2014 and full operation January 1, 2015.

#### Basic Life Insurance/dependent life/basic AD&D

1. Review plan design and contract and make recommendations for changing and updating of provisions.
2. Competitively bid program in 2014 for operation for Open Enrollment October 14, 2014 and full operation January 1, 2015.

#### Supplemental Life

1. Review plan design and contract and make recommendations for changing and updating of provisions.
2. Competitively bid program in 2014 for operation for Open Enrollment October 14, 2014 and full operation January 1, 2015.

#### Dental

1. Review plan design and contract and make recommendations for changing and updating of provisions.
2. Competitively bid program in 2014 for operation for Open Enrollment October 14, 2014 and full operation January 1, 2015.

#### Long Term Disability

1. Review plan design and contract and make recommendations for changing and updating of provisions.
2. Competitively bid program in 2014 for operation for Open Enrollment October 14, 2014 and full operation January 1, 2015.

#### Voluntary AD&D

1. Review plan design and contract and make recommendations for changing and updating of provisions.
2. Competitively bid program in 2014 for operation for Open Enrollment October 14, 2014 and full operation January 1, 2015.

#### Long Term Care

1. Review plan design and contract and make recommendations for changing and updating of provisions.

2. Survey the market place to ensure that the current rates are the most beneficial to the City and its employees. If so, no competitive bidding is necessary. If other markets are more favorable, competitively bid the program in 2014 for operation for Open Enrollment October 14, 2014 and full operations January 1, 2015.

Consultants must identify how they plan to achieve key milestones so that premium equivalent recommendations are recommended by the first Thursday of September each year and non-health benefit plans are approved by the City Council in September 2014. Key milestones include but are not limited to:

July 2013	Needs assessment, establish priorities, ensure compliance
August 2013	Advise the City on the proposed premium equivalents for health benefit year 2014
September 2013	Assist with the 2014 benefit plan presentation to City Council
October 2013	Assist Human Resources with open enrollment
January 2014	Needs assessment, establish priorities, ensure compliance, review procedures for non-health benefits RFP
April 2014	RFP issued for non-health programs
May 2014	Proposal responses due
June – July 2014	Review RFPs and present to the HIAC/Staff Screening and Selection Committee
August 2014	Present to City Council for approval of 2014 non-health benefit plan, repeat premium equivalent process and prepare for September's health benefit City Council presentation
October 2014	Assist Human Resources with open enrollment
January 1, 2015	Ensure all benefit plans are fully operational, prepare for the 2015 health benefits RFP process

Consultants may present specific consulting services they will provide the City of Wichita. This would likely include the following:

#### Discovery and Planning

Review of relevant documents, contracts, agreements and utilization to create a historical perspective for the current structure in place and to identify an inventory of current services

provided. It would also likely include operational assessment which would entail on-site interviews with key staff to discuss topics as benefit plan performance, service deliverables, and "wish list" expectations.

#### Development and Issuance of the RFP

After completion of Discovery and Planning, prepare a first draft of the RFP that takes into account City of Wichita needs for staff review, Staff Screening and Selection Committee review, Health Insurance Advisory Committee review, comment and agreement. The purpose of the RFP is to create a fair and competitive bidding environment specific to the needs of the City of Wichita, and fully compliant with State and local law. In addition, RFP will be the tool for going to the marketplace and capturing advances in the benefits field. RFP has to be issued through City's Purchasing Division.

#### Analyze the RFP Responses

This is a core step in the evaluation and search process and is subject to state and local laws for procurement. The broad areas reviewed would include, in addition to cost, commitment to the plan and administration of the benefit plan, the current and planned use of technology and the ability to provide best in class services. A key deliverable will be a written report summarizing the Consultant's findings and recommendations for contract award for each benefit plan. It will also include attending meetings with management staff and the Health Insurance Advisory Committee/Staff Screening and Selection Committee to review and discuss the recommendations for contract award and answer questions.

#### Due Diligence

The Consultant will provide the City with due-diligence reports on each prospective non-health and health benefit provider recommended for contract awards. One of the matters to review would be to learn if the products and services listed in the RFP responses are available, deliverable, comparable and are "best in class." This also will assist in determining whether the proposed fees are reasonable.

#### Fee Negotiation

Assist City staff in negotiating the best fee arrangement possible with the proposed service providers the City selects. In addition, the Consultant will provide guidance on the contract negotiations from the perspective of "best practice". It is understood the Consultant is not an attorney and is not in a position to provide legal advice.

City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** Civil Rights Litigation Defense Professional Legal Services

**INITIATED BY:** Department of Law

**AGENDA:** Consent

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**Recommendation:** Approve the agreement with Fisher, Patterson, Sayler & Smith, LLP to provide legal services for the defense of Civil Rights claims asserted against the City of Wichita filed pursuant to the Kansas Tort Claims Act and 42 U.S.C. 1983.

**Background:** The City of Wichita has experienced a rise of claims made pursuant to 42 U.S.C. §1983 regarding Wichita Police officers' use of force. Due to the time intensive nature of defending these claims in federal court, the specialized nature of the practice and current legal staffing levels, assistance is required to assist in adequately defending these actions and responding in a timely manner.

**Analysis:** Proposals to provide legal services were solicited from all law firms in Sedgwick County as well as firms elsewhere in the state that have expertise in this area. Proposals were submitted by four firms that were all interviewed by a Staff Screening and Selection Committee. Fisher, Patterson, Sayler & Smith, LLP was selected from among the proposals by the selection committee based on qualifications, staffing levels and price. A contract has been negotiated with a term running from April 15, 2013, to April 14, 2014, with options to renew under the same terms and conditions for three successive one-year terms by mutual agreement of both parties.

**Financial Considerations:** The contract provides a base agreement setting a fee schedule that reflects the fee regularly charged by comparable firms in the area for similar legal work and the commitment that the firm has made to have a representative available for City matters. The costs of legal services are charged to the Self Insurance Fund (tort). This agreement commits no funds, but creates the format for a blanket purchase order for legal services procurement on an as-needed basis.

**Legal Considerations:** The Law Department has approved the contract as to form.

**Recommendations/Actions:** It is recommended that the City Council authorize the Mayor to sign the Contract for Legal Services and approve any necessary budget adjustments for payment of professional fees incurred.

**Attachments:** Contract for Legal Services

### **CONTRACT FOR LEGAL SERVICES**

THIS CONTRACT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between the CITY OF WICHITA, KANSAS, a Municipal Corporation, hereinafter called "CITY", and "FISHER, PATTERSON, SAYLER & SMITH" Attorneys at Law, hereinafter referred to as "ATTORNEY".

WITNESSETH:

That in consideration of the sums to be paid by the CITY to the ATTORNEY as hereinafter provided, and in further consideration of the mutual promises, covenants and agreements of the parties, the CITY does hereby employ the ATTORNEY for services in connection with the defense of civil rights litigation asserted against the CITY and its agencies.

The ATTORNEY agrees to, and hereby does, accept such employment and agrees to do the work necessary to perform professional legal services for the CITY as described herein pursuant to the terms thereof.

### **TERM**

The ATTORNEY agrees to commence such work the date this contract is executed, and agrees to execute the same with reasonable diligence until the 14th day of April, 2014. Renewal of said Contract for continued legal services for a like twelve month period (the renewal period) will be at the discretion of the governing body of the City of Wichita upon terms to be mutually agreed upon by the parties hereto. If the parties are unable to agree upon the terms of engagement for the renewal period, then this Contract will terminate; ATTORNEY shall be paid in full for all services provided and expenses incurred to date of termination; and, ATTORNEY shall be relieved of all further duties and obligations with regard to any then pending litigation consistent with the Kansas Rules of Professional Conduct.

### **COMPENSATION**

It is agreed that the ATTORNEY shall be compensated for its services on an hourly basis as set forth in Exhibit "A" which is attached and made a part of this Contract. Such rates shall be effective for all services provided on and after April 15, 2013.

ATTORNEY shall also be reimbursed for their disbursements and advances for items such as expert witness fees and expenses, consultants' fees and expenses, reproduction of documents, shipping and postage, long distance telephone calls and similar costs as set out in Exhibit "B". Such rates shall be effective for all services provided on and after April 15, 2013.

Statements for fees and itemized expenses shall be submitted on a monthly basis in accordance with ATTORNEY's standard billing practices and shall be paid within thirty days after receipt by the CITY.

ATTORNEY shall maintain a contemporaneous record of time billed, indicating a brief summary of description of the work performed. The statements submitted for services rendered under the terms of the Contract will reflect the time expended by ATTORNEY and describe the work performed.

### **ASSIGNMENT**

This Contract may not be assigned, transferred, or in any way disposed of by ATTORNEY without first having obtained written approval from the City Manager or City Council of the CITY.

### **LIMITATIONS ON AUTHORITY**

It is understood and agreed that because of the responsibilities of the City Attorney, the City Attorney will appear on all documents and pleadings and ATTORNEY will file no pleadings and send no documents, applications, or opinions of any kind to any agency or entity on behalf of the CITY, and of its agencies or departments, without consultation with the City Attorney, unless specifically requested to do so by the City Council or City Manager. This Contract contains no authorization in any event for ATTORNEY to sign any papers or documents in the name of the City Attorney. Further, it is understood and agreed that ATTORNEY shall have no authority or incur any liability, cost or expense on the part of the CITY except as may be authorized by this Contract or specifically authorized in writing by the City Attorney.

### **SCOPE OF SERVICES TO BE PROVIDED**

During the performance of the Contract, ATTORNEY shall agree to perform and shall be prepared to provide a broad range of professional services related to defense of civil litigation asserted against the CITY or agencies thereof pursuant to the Kansas Tort Claims Act or 42 U.S.C. 1983 et seq. The professional services performed by the ATTORNEY will be under the direction and control of the City Attorney. In some situations, the services provided will be done in association with in-house legal staff of the Department of Law. The professional services include, but are not limited to the following:

1. Research and general investigation into the civil rights law suits asserted against the CITY and its employees;
2. Research and general investigation aimed at assessing the likely success of civil rights actions asserted against the CITY and its employees;
3. Render advice, guidance and assistance when requested by the City Manager, City Attorney, Wichita Police Department or their designees, relative to litigation and training;
4. Consulting with the City Attorney, Chief of Police and CITY staff regarding:
  - a. analysis and review of civil litigation asserted against the City of Wichita and its employees pursuant to the Kansas Tort Claims Act and 42 U.S.C. 1983.
  - b. suggestions for training and policy development regarding police conduct and use of force;
5. Draft and preparation of pleadings in civil rights litigation filed pursuant to the Kansas Tort Claims Act and 42 U.S.C. 1983. including all necessary discovery, motion practice, trial preparation and trial, either to the court or a jury and appellate proceedings beyond the district court;
6. Have available at all reasonable times a senior member of the firm for the purpose of providing the services described herein in a timely manner;
7. Avoid representation of other clients which cause or will result in conflicts of interest for ATTORNEY except as otherwise provided hereinafter;
8. Upon request, attend City Council meetings when a matter involving civil rights litigation filed pursuant to the Kansas Tort Claims Act and 42 U.S.C. 1983. is to be considered by the City Council.

### **CITY IS THE CLIENT**

ATTORNEY represents that in providing professional services under this Contract that they represent solely and only the CITY's interests.

### **PROFESSIONAL LIABILITY INSURANCE**

The ATTORNEY will maintain policies of professional liability insurance coverage, with a Certificate of Insurance or a copy of the policy to be provided to the CITY upon written request.

**NON-DISCRIMINATION**

ATTORNEY agrees to the terms and conditions as set forth in Exhibit "C", which is attached to and made part of this Contract.

**TERMINATION OF CONTRACT FOR CAUSE**

It is mutually agreed that the CITY reserves the right to terminate this Contract at any time, upon written notice, in the event of ATTORNEY's inability to perform the services or in the event the services of ATTORNEY are unsatisfactory; provided, that in such case the ATTORNEY will be paid the reasonable value of the services rendered up to the time of termination.

**CONFLICTS**

In the event a potential or actual conflict of interest issues arises between the CITY and any of the ATTORNEY's other clients or potential clients relating to services provided by ATTORNEY to such clients, ATTORNEY shall notify the City Attorney in writing and seek a waiver of the conflict of interest. The CITY agrees that ATTORNEY will not be required under this Contract or otherwise to represent the CITY in condemnation of land owned or otherwise occupied by ATTORNEY's other clients.

CITY OF WICHITA, KANSAS

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

FISHER, PATTERSON, SAYLER & SMITH, L.L.P.

\_\_\_\_\_  
By:

Title: \_\_\_\_\_

APPROVED AS TO FORM

\_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law



**EXHIBIT "A"**

Rate for Attorney (Partner/Members)	\$175.00/hr
Rate for Attorney (Associates and Of Counsel)	\$145.00/hr
Rate for Law Clerk	\$ 45.00/hr
Rate for Legal Assistant/Paralegal	\$ 80.00/hr
Travel Rates (half of regular hourly rates)	½ of above*
Mileage (current IRS reimbursable amount)	\$ 0.51/mi

**EXHIBIT "B"**

Actual Costs will be reimbursed for the following types of costs incurred when receipts and/or detailed statements are provided and charges are approved by the City:

- |   |                                |
|---|--------------------------------|
| 1. In-house Photocopying                                    | \$ .10 cents per page          |
| 2. Outside Printing for large or non-standard copy projects | Actual expense incurred        |
| 3. Facsimile Transmittals                                   | None                           |
| 4. Long Distance Telephone Expense                          | Only for extraordinary amounts |
| 5. Postage & Shipping Expenses                              | Only for extraordinary amounts |
| 6. Overnight Delivery Publication Expenses                  | Actual expense incurred        |
| 7. Recording/Filing Fees                                    | Actual expense incurred        |
| 8. State Agency Fees  | Actual expense incurred        |
| 9. Travel Expenses:   |                                |
| a. Mileage  | Current IRS rates              |
| b. Tolls/Parking  | Actual expense incurred        |
| c. Taxis/Other Ground Transportation                        | Actual expense incurred        |
| d. Meals/Lodging  | Actual expense incurred        |
| 10. Court Reporting   | Actual expense incurred        |
| 11. Transcription Fees                                      | Actual expense incurred        |
| 12. Reproductions/Outside Reproductions                     | Actual expense incurred        |
| 13. Exhibit Preparation by Outside Providers                | Actual expense incurred        |

**EXHIBIT "C"**

**REVISED NON-DISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM  
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination—Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated hereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, Vietnam Era Veteran or Special disabled Veteran and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency.
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Exempted from these requirements are: (State of Kansas)
  - 1. Any contractor, subcontractor, vendor or supplier who has already complied with the provisions set forth in sections pertaining to the State of Kansas by reason of holding a contract with the Federal government, or a contract involving Federal funds.

2. Contracts entered into by a contractor, subcontractor, vendor or supplier who employs fewer than four (4) employees during the term of this contract.
  3. Contracts with the City of Wichita with a cumulative total of five thousand dollars (\$5,000) or less during the fiscal year of the City.
- D. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination – Equal Opportunity/Affirmative Action Program Requirements.
1. The vendor, supplier, contractor or subcontractor shall observe the provisions of the Code of the City of Wichita against discrimination (Section 2.12.900, et seq.) of the Code of the City of Wichita, Kansas) and shall not discriminate against any employee or applicant for employment in the performance of work under the present contract, purchase order or agreement because of race, religion, color, sex, “disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification”, national origin, ancestry or marital status. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination – Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation.
  2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, “disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification”, national origin, ancestry or marital status. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, “Equal Opportunity Employer”, or a similar phrase that is deemed acceptable to the City of Wichita;
  3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the rules, regulations, and will permit access to books, records and procedures concerning employment relations by and for the purpose of investigation to ascertain compliance with Non-Discrimination – Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City of Wichita in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be initiated against such vendor, supplier, contractor or subcontractor;
  4. If the vendor, supplier, contractor or subcontractor is found guilty of a violation of any provision of the Code of the City of Wichita pertaining to and regulating Non-Discrimination – Equal Employment Opportunity under a decision or order of the City of Wichita, Kansas, which has become final, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order

or agreement, and it may be canceled, terminated or suspended in whole or in part by the City of Wichita, and such other sanctions and remedies may be imposed as provided by law;

5. The vendor, supplier, contractor or subcontractor shall include every provision of Subsection 1 through 4 inclusive, of this present section in every subcontract, sub-purchase order or sub-agreement so that such provisions will be binding upon each subcontractor, sub-vendor or sub-supplier.

E. Exempted from these requirements are: (City of Wichita)

1. Any contractor or subcontractor, vendor or supplier of the City of Wichita, or any of its agencies, who wishes to enter into a contract, purchase order or agreement shall prior to entering into such contract, purchase order or agreement, submit to the City of Wichita, Kansas, a preliminary report on forms provided by the Board, concerning Non-Discrimination – Equal Employment/Affirmative Action for review and evaluation. Upon review of the preliminary form submitted:
  - a. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City, are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
  - b. These provisions shall not apply to vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reasons of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) days period from the Federal agency involved.
  - c. Those contractors, subcontractors, vendors or suppliers not exempted herein whose preliminary report reveals deficiencies shall be required to submit goals and timetables for correction of such deficiencies in accordance with instruction included with the preliminary report for review, evaluation and acceptance prior to a contract, purchase order or agreement award.

F. Failure of any contractor, subcontractor, vendor or supplier to report to the “Kansas Human Rights Commission” as required by K.S.A. 44-1031, as amended, or has been found guilty of a violation of the City’s Ordinances, State Statutes, or Federal Statutes, or regulations pertaining to unlawful discrimination, which finding, decision or order has become final, shall be deemed a breach of this contract and said contract may be canceled, terminated or suspended in whole or in part by the City or its contracting agency.

**City of Wichita**  
**City Council meeting**  
April 16, 2013

**TO:** Mayor and City Council Members

**SUBJECT:** Redbud Path Corridor Brownfield Assessment – Oliver to Woodlawn (District I)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Consent

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**Recommendation:** Approve the submission of the application and authorize the necessary signatures.

**Background:** In 2006 the City of Wichita railbanked the former BNSF rail corridor between Hydraulic Avenue and 159<sup>th</sup> Street for the purpose of developing a public pathway. The City is currently developing the Redbud Path, a paved shared-use path in that corridor from I-135 to Oliver Avenue. Prior to development, the City applied for and received Kansas Department of Health and Environment (KDHE) assistance for environmental assessments of that portion of the corridor. The assessments identified environmental concerns associated with the property and the City was able to apply for federal funding to address those concerns by placing a pavement cap (path) on the corridor.

The Wichita Bicycle Master Plan (endorsed by the City Council on February 5, 2013) identifies the Redbud Path from Oliver Avenue to K-96 as the top priority shared-use path bicycle facility for the City to develop in the next 10 years. On February 5, 2013, the City Council approved the submission of applications for federal Transportation Enhancement funds to develop the Redbud Path from Oliver Avenue to Woodlawn Boulevard.

**Analysis:** The development of the Redbud Path from Oliver Avenue to Woodlawn Boulevard would extend the path an additional mile to the east of the terminus at the intersection of 17<sup>th</sup> Street and Oliver Avenue. A traffic signal exists at the intersection, making crossings of Oliver easier, safer, and more convenient for cyclists. However, environmental issues may exist along the former railroad corridor and may require mitigation measures prior to development of the path. An environmental assessment of the corridor from Oliver Avenue to Woodlawn Boulevard could help identify environmental issues and ways to address them. The KDHE is currently accepting applications for the Brownfield Targeted Site Assessments. The program provides both Phase I (records, review, site reconnaissance, and interviews) and Phase II (i.e. soil samples, etc.) assessments.

**Financial Considerations:** The KDHE Brownfields Targeted Site Assessment program covers the full cost of the environmental assessment. No funding commitments by the City are necessary.

**Legal Considerations:** The Law Department has reviewed and approved the application as to form.

**Recommendations/Actions:** It is recommended that the City Council authorize staff to submit an application to KDHE for the Brownfield Targeted Site Assessment program for the Redbud Path corridor from Oliver Avenue to Woodlawn Boulevard, and authorize the necessary signatures.

**Attachments:**  
KDHE Targeted Assessment Application – Redbud Path from Oliver Avenue to Woodlawn Boulevard

**BROWNFIELD TARGETED ASSESSMENT**

**APPLICATION PACKAGE**



**KANSAS DEPARTMENT OF HEALTH AND  
ENVIRONMENT  
BUREAU OF ENVIRONMENTAL REMEDIATION  
1000 SW JACKSON, SUITE 410  
TOPEKA, KANSAS 66612**

## **TABLE OF CONTENTS**

**PART A:** BROWNFIELD TARGETED ASSESSMENT INFORMATION

**PART B:** BROWNFIELDS TARGETED ASSESSMENT APPLICATION  
INFORMATION

**PART C:** CONSENT FOR ACCESS TO PROPERTY

**PART D:** BROWNFIELDS TARGETED ASSESSMENT APPLICATION  
FORM



***PART A***

***BROWNFIELD TARGETED ASSESSMENT  
INFORMATION***

KDHE, under a Cooperative Agreement with EPA, is conducting Brownfield Targeted Site Assessments (BTA) of publicly owned property, qualified privately owned property, and properties owned by not-for-profit organizations across the state. Often, local governments have acquired contaminated properties through foreclosure for back taxes, land donations, or may already own property they would like to sell for redevelopment purposes. It is sometimes difficult for local governments to find adequate funding to pay for environmental assessments (Phase I and Phase II Assessments for Due Diligence) prior to redevelopment. The BTA Program provides funding and technical assistance to assist communities in assessing properties. Often, it is the unknown condition of the environment that dissuades developers from considering properties, not actual contamination. Brownfields Targeted Assessments are reviewed and future decisions for the property are endorsed by both state and federal government.

**I. INTRODUCTION**

A. What are brownfields?

The term 'brownfields' means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

B. Why are environmental assessments important?

Environmental assessments determine if contamination is present, and to some extent, the significance of the impact present at a property. The assessment provides answers to many of the questions regarding potential cleanup costs and environmental liability associated with brownfield properties.

C. Why is redevelopment of brownfields important?

Redevelopment of brownfields potentially benefits the environment, the community, and industry by:

- preserving undeveloped greenspace
- cleaning up contaminated properties, thereby mitigating
- potential health risks
- recycling and utilizing preexisting infrastructure and services
- returning properties to tax rolls
- creating employment opportunities

## II. KDHE ASSISTANCE

A. What type of information is collected during the Phase I assessment?

The following information is collected during Phase I activities:

- *Records review* - a review of all state and federal records to identify any contaminated sites in the vicinity of the property. This review will also include identification of all physical characteristics of the property including geologic and topographic conditions. All historical uses of the property will be identified and all recorded land and title information will be collected.
- *Site reconnaissance* -the property, and adjacent properties, will be observed visually and physically. All evidence of current and historical facilities use will be documented.
- *Interviews with owners and occupants* - KDHE will conduct interviews with these individuals to obtain information indicating the recognized environmental conditions in connection with the property.

B. What type of sampling may be conducted during the Phase II assessment?

The following media may be sampled by KDHE during a Phase II assessment:

- soil
- sediment
- ground water
- surface water
- drums and other chemical waste containers
- tanks
- building materials (i.e. asbestos and lead paint)

C. What type of report is generated by KDHE?

KDHE, or KDHE's contractors, will complete a Brownfields Targeted Assessment report to include, at a minimum, the following sections:

- Introduction
- Property Description
- Property History
- Soil Characteristics, Geology, and Hydrogeology
- Property Reconnaissance and Sampling
- Analytical Results
- Conclusion
- References

D. What if contamination is found on the property?

Should the assessment reveal contamination on the property, KDHE will request a meeting with the applicant to discuss the following possibilities:

- removal options
- identification of the actual discharger
- participation in KDHE's Voluntary Cleanup Program where the applicant can pursue cleanup if necessary prior to redevelopment and can receive a No Further Action Determination for the property
- cleanup standards/goals/technologies
- available funding mechanisms
- redevelopment suitability regarding environmental issues (i.e. land use restrictions, nonresidential/residential redevelopment)

## ***PART B***

### ***BROWNFIELDS TARGETED ASSESSMENT APPLICATION INFORMATION***

#### ***BEFORE COMPLETING THE APPLICATION, PLEASE READ THE FOLLOWING INFORMATION:***

The Brownfields Targeted Assessment (BTA) is an excellent opportunity for units of government to obtain environmental information to assist in their redevelopment endeavors. KDHE's goal is to assess communities in putting abandoned properties into productive reuse and to promote sustainable development/growth.

Preference will be given to properties with a proposed end use, which may allow flexibility in setting cleanup objectives, thus facilitating a quicker cleanup and redevelopment process. Properties with complete redevelopment plans or with a prospective purchaser currently under consideration will also be given preference. Applications providing the best evidence of a true need with community support have the best chance of being selected.

#### ***Who is eligible?***

Any unit of government (city, town, county, municipality, not-for-profit organization, etc.) may submit a property for assessment. Private property owners are also eligible provided they have support from a local unit of government or non-profit organization.

#### ***What types of properties are eligible?***

All types of properties may receive an assessment, with some exceptions. KDHE's primary focus is on industrial and commercial properties; however, residential areas may be considered under special circumstances. Properties subject to enforcement action associated with environmental contamination are not eligible (Superfund sites, etc.). Units of government may petition for exceptions.

#### ***Who reviews the application?***

Both KDHE and EPA review the applications. Applications from all units of government, regardless of size or geographic location, will be given equal consideration. Applications should be clear and concise, follow the criteria (indicated in Part C), and provide sufficient detail for KDHE to compare the merits of each and decide which applications best support the intent of the program. KDHE will prioritize the properties to receive an environmental assessment based on the applications best meeting the criteria.

#### ***How are the applicants notified?***

Selected applicants will receive a confirmation letter within three weeks of the receipt of the application. A meeting or teleconference will be held with the applicant, explaining what the project will consist of and the respective responsibilities of each party. KDHE intends to actively work with the applicant to meet the community's needs. Applicants who are not selected will also be notified in writing; however, all applications are kept on file for later considerations.

***Who obtains access to the property?***

Included in this BTA application package is the “Consent For Access To Property” form. If the BTA applicant does not own the property being assessed, the applicant must have this form signed by the property owner. If the BTA applicant is the property owner, the BTA application form serves as the access agreement. Therefore, the “Consent For Access To Property” form does not need to be signed.

***What services may the unit of government need to provide?***

Federal funds are currently used to pay for Brownfield Targeted Assessments; however, KDHE may ask the respective unit of government to provide “in-kind” services. These services may consist of surveying the property, assisting KDHE in the proper disposal of soil and ground water generated during the assessment, and gaining access to neighboring properties.

***How long will the assessment take once the application is approved by EPA?***

Upon approval of the application, assessment activities will be initiated within 30 days. The average time for completion of a BTA (both Phase I and Phase II assessment) is approximately 3 to 4 months from the date the application is received until the report is submitted to the EPA for approval. Time frames may be expedited depending on the work load and other issues.

***PART C***

***CONSENT FOR ACCESS TO PROPERTY***

The person signing below gives permission to the Kansas Department of Health and Environment (KDHE) to enter onto the property described below for the purpose of conducting Phase I Site Reconnaissance and/or Phase II soil/water sample collection on the day/s of \_\_\_\_\_.

Permission is granted to KDHE, and to its employees, agents, assigns, or contractors to enter this property in order to carry out the above activities pursuant to K.S.A. 65-3453 *et seq.*

This permission is being granted by or on behalf of the (circle one):

owner                  tenant

of this property. KDHE has assured the person signing below that upon completion of the work specified above, KDHE materials and equipment will be removed from the property and the property restored as nearly as reasonably possible to the condition it was in at the time KDHE began work at the Site.

ACCESS IS GRANTED FOR PROPERTY AT:

SITE NAME \_\_\_\_\_

ADDRESS OR LEGAL LOCATION: \_\_\_\_\_

CITY: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print name of person signing

\_\_\_\_\_  
(Company name, if applicable)

\_\_\_\_\_  
(Title, if signing for a business)

***PART D***

***BROWNFIELDS TARGETED ASSESSMENT  
APPLICATION FORM***



# KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT BROWNFIELDS TARGETED ASSESSMENT APPLICATION FORM

Use only for Sites within Kansas



<b>SECTION 1: Applicant Information</b>				
Applicant Name:				
Organization:				
Address:				
Contact Person:				
Phone:		Fax:		Email:
Type of Eligible Applicant:				
City	County	Tribe	Not-for-Profit	Private (must have a letter of support)
Other (please describe):				
IS APPLICANT OR ANY OTHER PARTY UNDER ORDER FROM EPA OR KDHE TO CONDUCT SITE ASSESSMENT AND/OR CLEANUP?				
YES (Describe Below)		NO		UNKNOWN
Briefly describe involvement/role of KDHE in enforcement and/or oversight of assessment/cleanup of candidate site:				

<b>SECTION 2: Proposed Site Information</b>		
Name/Title of Site/Facility:		Street Address:
City:	State: KS	Zip:
Current Use of Site/Facility (if any):		
Number of Parcels:		Size of Site In Acres:

<b>SECTION 3: Current Site Ownership:</b>		
Name:		
Address:		
City:	State:	Zip:
Phone:		
If property is not owned by applicant, the applicant must secure access to the property by having the appropriate property access form signed by the property owner. The property access form is included in the Brownfields Targeted Assessment Package.		

<b>SECTION 4: Site History</b>			
PAST SITE USES (Residential, Commercial, Industrial, Greenspace)			APPROXIMATE DATES:
BUILDINGS ON SITE (List office, store, guard house, etc):	SQUARE FOOTAGE	MULTI-STORY <small>(check if yes)</small>	CONDITION (usable, gutted, razed, etc.)



**KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
BROWNFIELDS TARGETED ASSESSMENT  
APPLICATION FORM**

Use only for Sites within Kansas

**SECTION 4: Site History (cont.)**

PRIOR SITE ASSESSMENT ACTIVITIES:                      NONE                      UNKNOWN

Describe Conclusions of prior site assessment activities (or attach relevant portions of report(s)).

If reports are unavailable, identify consultant, client, and approximate date of study.

**SECTION 5: Future Site Activities**

SITE ASSESSMENT NEEDS:

Describe difficulties related to perceived contamination that have hindered reuse of the property.

ANTICIPATED FUTURE USE:

RESIDENTIAL                      RECREATIONAL                      COMMERCIAL/RETAIL                      INDUSTRIAL

OTHER:

Describe applicant's proposed reuse, redevelopment or expansion plan:

DESCRIBE ANY FINANCIAL OR PUBLIC INTEREST INCENTIVES PLANNED TO SPUR DEVELOPMENT

AND/OR CLEANUP AND PROPOSED FUNDING SOURCES: (Tax incentives, etc.)

*This program is for site assessment only, cleanup money is not being offered as part of this program.*

**Signature:**

**Date:**

PLEASE RETURN FORM TO:  
**MAGGIE WEISER, Brownfields Coordinator**  
Kansas Department of Health and Environment  
Bureau of Environmental Remediation  
1000 SW Jackson, Suite 410  
Topeka, Kansas 66612  
785-296-5519  
or email: [Mweiser@kdheks.gov](mailto:Mweiser@kdheks.gov)

RECEIVED

APR 12 '13

CITY CLERK OFFICE

## CERTIFICATE OF CANVASS

STATE OF KANSAS )  
 SEDGWICK COUNTY)

Pursuant to K.S.A. 25-3104 the Board of County Commissioners, acting as a Board of Canvassers met at 10:00 a.m. on Monday, April 8, 2013 in the Sedgwick County Election Office, First Floor, Historic Courthouse, to canvass the votes cast in the City/School General Election conducted on April 2, 2013 for the office of Council Member for the **City of Wichita**, with the following present:

James B. Skelton, Chariman  
 Tim R. Norton, Commissioner – Lisa Corr, Proxy  
 Karl Peterjohn, Commissioner  
 Richard Ranzau, Commissioner  
 Dave M Unruh, Commissioner

The returns of the election were presented to the Board as received from the official conducting the election. The Board proceeded to canvass the votes and found the results of the election to be as follows:

Office and Candidates	Votes	Provisional Votes	Total Votes
City Council Member WICHITA DISTRICT 1			
Dave Thomas	611	4	615
Lavonta Williams	1,540	13	1553
WRITE-IN	13	1	14
<i>See Attached Write-in Canvass</i>			
City Council Member WICHITA DISTRICT 3			
James Clendenin	926	0	926
Clinton D. Coen	811	3	814
WRITE-IN	12	0	12
<i>See Attached Write-in Canvass</i>			
City Council Member WICHITA DISTRICT 6			
Janet L. Miller	1,786	9	1795
Marty Mork	525	1	526
WRITE-IN	10	1	11
<i>See Attached Write-in Canvass</i>			
Council Member, Unexpired Term WICHITA DISTRICT 4			
Joshua Blick	1,060	0	1060
Jeff Blubaugh	1,100	6	1106
WRITE-IN	15	0	15
<i>See Attached Write-in Canvass</i>			

Whereupon it was determined that the following candidates were duly elected:

**Council Member, District 1:**

Lavonta Williams

**Council Member, District 3:**

James Clendenin

**Council Member, District 6:**

Janet L. Miller

**Council Member, District 4, Unexpired Term:**

Jeff Blubaugh

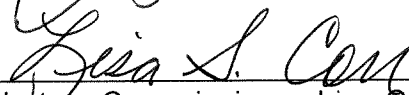
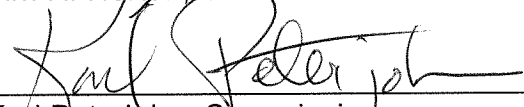


Write-in Canvass

City & School General Election, April 2, 2013

District	Office	First Name	Middle Name	Last Name	Additional Information	Vote
1	COUNCIL MEMBER	MICHAEL		BLOOMBERG		1
1	COUNCIL MEMBER	WILLIE		BURTON		1
1	COUNCIL MEMBER	KENYA		COX		1
1	COUNCIL MEMBER	JOHN		D'ANGELO		1
1	COUNCIL MEMBER	EASU	A.	FREEMAN		1
1	COUNCIL MEMBER	KYLE	D.	HACKER		1
1	COUNCIL MEMBER	CYNDI		HOWERTON		1
1	COUNCIL MEMBER	WANDA		HUNT		2
1	COUNCIL MEMBER	TERRI		MOSES	CHIEF	1
1	COUNCIL MEMBER	MIGUELITO		TURCON		1
1	COUNCIL MEMBER	LAVONTA		WILLIAMS		1
1	COUNCIL MEMBER	JUANITA		BLACKMON		1
3	COUNCIL MEMBER			"BLANK"		1
3	COUNCIL MEMBER			ANYBODY ELES		1
3	COUNCIL MEMBER	BEN		BAND		1
3	COUNCIL MEMBER	ERIC		BELL		1
3	COUNCIL MEMBER	ROBERT		BROWNING		1
3	COUNCIL MEMBER			DIFFERENT SLUMLORD LOVER		1
3	COUNCIL MEMBER	CAROLYN	MARIE	FUGIT		1
3	COUNCIL MEMBER	MARTY		MORK		1
3	COUNCIL MEMBER			NOBODY		1
3	COUNCIL MEMBER	ROGER	A	SMITH		1
3	COUNCIL MEMBER	ROGER		SMITH		1
3	COUNCIL MEMBER	DONALD		TRUMP		1
3	COUNCIL MEMBER	LAVONTA		WILLIAMS		1
4	COUNCIL MEMBER	MARY		DEAN		1
4	COUNCIL MEMBER	CRAIG		GABEL		3
4	COUNCIL MEMBER	CRAIG		GABLE	(GABEL)	1
4	COUNCIL MEMBER	GREG		GABLE		1
4	COUNCIL MEMBER	DAVID		GLOVER		1
4	COUNCIL MEMBER	NATALIE		HAMILTON		1
4	COUNCIL MEMBER	WANDA		HUNT		1
4	COUNCIL MEMBER	CLARK		KENT		1
4	COUNCIL MEMBER	DOUGLAS		MATHEWS		1
4	COUNCIL MEMBER	STAN		REESER		1
4	COUNCIL MEMBER	STANLEY		REESER		2
4	COUNCIL MEMBER	RALPH		YOUNGER		1
6	COUNCIL MEMBER	JEREMY		ALESSI		1
6	COUNCIL MEMBER	RUSSELL		ATHERTON		1
6	COUNCIL MEMBER	BILL		GALE		2
6	COUNCIL MEMBER	THOMAS		JEFFERSON		1
6	COUNCIL MEMBER	RICHARD		STEPHENSON		1
6	COUNCIL MEMBER	DAVE		THOMAS		1
6	COUNCIL MEMBER	LARRY	G	WHITE		1
6	COUNCIL MEMBER	FRANCES		WILSON		2
6	COUNCIL MEMBER	JEFF		BLUEBAUGH		1

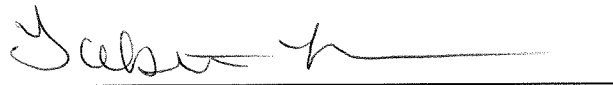
The undersigned hereby certify that the foregoing results are shown by the finalized abstract of election returns.

Dated this 8th day of April, 2013.

  
\_\_\_\_\_  
James B. Skelton, Chairman  
\_\_\_\_\_  
Tim R. Norton, Commissioner-Lisa Corr, Proxy  
\_\_\_\_\_  
Karl Peterjohn, Commissioner  
\_\_\_\_\_  
Richard Ranzau, Commissioner  
\_\_\_\_\_  
David M. Unruh, Commissioner

BOARD OF COUNTY CANVASSERS  
SEDGWICK COUNTY, KANSAS

ATTEST:

  
\_\_\_\_\_  
Tabitha M Lehman  
Commissioner of Elections

SEAL

**Second Reading Ordinances for April 16, 2013 (first read on April 9, 2013)**

- A. SUB2012-00023 -- Plat of Kia Addition located on the southeast corner of Tyler Road and Kellogg (District IV)**

**ORDINANCE NO. 49-483**

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

- B. A13-01: Request by West 47 LLC to annex lands generally located at the southeast corner of 47th Street South and West Street (District IV)**

**ORDINANCE NO. 49-483**

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the City of Wichita, Kansas. (A13-01)

City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** SUB2012-00028 -- Plat of The Waterfront 8<sup>th</sup> Addition located east of Webb Road, on the north side of 13<sup>th</sup> Street North (District II)

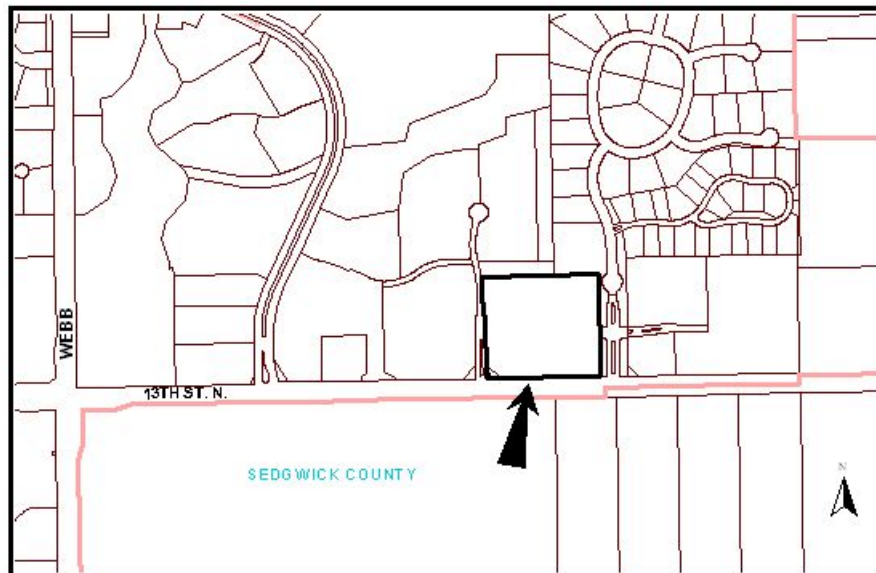
**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

---

**Staff Recommendation:** Approve the plat.

**MAPC Recommendation:** Approve the plat. (11-0)



**Background:** The site, consisting of nine lots on 7.89 acres, is a replat of The Waterfront 6<sup>th</sup> Addition.

**Analysis:** Water service is available to serve the site. The applicant has submitted a 100 percent Petition and a Certificate of Petition for sewer and paving improvements. The site is within the noise impact area of McConnell Air Force Base; therefore the applicant has submitted an Avigational Easement and Restrictive Covenant to assure that adequate construction methods will be used to minimize the effects of noise pollution. The applicant has submitted a Restrictive Covenant to provide for the ownership and maintenance responsibilities of the reserves being platted.

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

**Financial Considerations:** There are no financial considerations associated with the plat.

**Legal Considerations:** The Law Department has reviewed and approved the Certificate of Petitions, Avigational Easement, Restrictive Covenants, and Resolutions as to form and the documents will be recorded with the Register of Deeds.

**Recommendations/Actions:** It is recommended that the City Council approve the documents and plat, authorize the necessary signatures, and adopt the Resolutions.

**Attachments:** Certificate of Petitions.  
Avigational Easement.  
Restrictive Covenants.  
Resolutions.



First Published in the Wichita Eagle on April 19, 2013

**RESOLUTION NO. 13-061**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON **STONEGATE LANE FROM THE EAST EDGE OF NORTH LINDBERG STREET TO THE WEST EDGE OF NORTH VERANDA STREET (NORTH OF 13TH, WEST OF GREENWICH) 472-85097** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON **STONEGATE LANE FROM THE EAST EDGE OF NORTH LINDBERG STREET TO THE WEST EDGE OF NORTH VERANDA STREET (NORTH OF 13TH, WEST OF GREENWICH) 472-85097** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to pave **Stonegate Lane from the east edge of north Lindberg Street to the west edge of north Veranda Street (north of 13th, west of Greenwich) 472-85097.**

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Three Hundred Twenty-Three Thousand Dollars (\$323,000)** exclusive of the cost of interest on borrowed money, with 100 Percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **March 1, 2013**, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WATERFRONT 8TH ADDITION**

Lots 1 through 5, Block 1

Lots 1 through 4, Block 2

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **square foot** basis.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 1980 Supp. 12-6a01 et seq.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas this 16th day of  
April, 2013.

---

CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

GARY E. REBENSTORF  
DIRECTOR OF LAW

132019

First Published in the Wichita Eagle on April 19, 2013

**RESOLUTION NO. 13-062**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **LATERAL 60, MAIN 24, WAR INDUSTRIES SEWER (NORTH OF 13TH, WEST OF GREENWICH) 468-84871** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF **LATERAL 60, MAIN 24, WAR INDUSTRIES SEWER (NORTH OF 13TH, WEST OF GREENWICH) 468-84871** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct **Lateral 60, Main 24, War Industries Sewer (north of 13, west of Greenwich) 468-84871.**

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Thirty-Seven Thousand Dollars (\$37,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **March 1, 2013**, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WATERFRONT 8TH ADDITION**

Lots 1 through 5, Block 1

Lots 1 through 4, Block 2

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **square foot** basis.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 16th day of April, 2013.

\_\_\_\_\_  
CARL BREWER, MAYOR

ATTEST:

\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
GARY E. REBENSTORF  
DIRECTOR OF LAW

COPY

CERTIFICATE

Sedgwick County ) SS  
State of Kansas )

We, Johnny Stevens, Manager, and Stephen L. Clark, Manager, Beech Lake Investment, LLC, a Kansas Limited Liability Company, and also The Waterfront Holding Co., LLC, a Kansas Limited Liability Company, owners and plattors of Waterfront Eighth Addition, do hereby certify that petitions for the following improvements have been submitted to the City Council of Wichita, Sedgwick County, Kansas;

1. Sanitary Sewer Lateral Petition (1)
2. Paving Petition (1)

As a result of the above mentioned petitions for improvements, lots within Waterfront Eighth Addition may be subject to special assessments assessed thereto for the cost of constructing the above described improvements.

Signed this 4<sup>th</sup> day of March, 2013.

BEECH LAKE INVESTMENT, LLC,  
A Kansas Limited Liability Company  
& also;  
THE WATERFRONT HOLDING CO., LLC,  
A Kansas Limited Liability Company

By:

Johnny Stevens, Manager

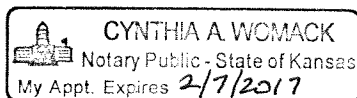
By:

Stephen L. Clark, Manager

Sedgwick County ) SS  
State of Kansas )

Be it remembered that on this 4<sup>th</sup> day of March, 2013, before me a Notary Public in and for said State and County, came Johnny Stevens, Manager, and Stephen L. Clark, Manager, Beech Lake Investment, LLC, a Kansas Limited Liability Company, and also The Waterfront Holding Co., LLC, a Kansas Limited Liability Company, and also The Waterfront Commercial Properties, LLC, a Kansas Limited Liability Company, to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same. In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

(SEAL)



Notary Public:

Cynthia A. Womack

My Appointment Expires: February 7, 2017

COPY

### AVIGATIONAL EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That for a good and valuable consideration, the receipt of which is hereby acknowledged, that Johnny Stevens, Manager, and Stephen L. Clark, Manager, Beech Lake Investment, LLC, a Kansas Limited Liability Company, and also The Waterfront Holding Co., LLC, a Kansas Limited Liability Company, do hereby grant a permanent Avigational Easement to the public authority authorized by law to own and operate public-owned airports in Sedgwick County, Kansas, for the use of "navigable Airspace" as defined by the Federal Aviation Act of 1958, over all of the following described real estate, to wit:

All property platted as Waterfront Eighth Addition, an addition to Wichita, Sedgwick County, Kansas.

By virtue of this easement, the grantors, for and on behalf of themselves and all successors in interest to any and all of the real property above described, waives as to the public authority only any and all claims for damage of any kind whatsoever incurred as a result of aircraft using the "Navigable Airspace" granted herein. This easement does not grant or convey any surface use rights, nor is it to be construed to grant any right to private persons or corporations.


"Navigable Airspace" means air space above the minimum altitudes of flight prescribed by regulations issued under the Federal Aviation Act of 1958, Section 101 (24) 49 U.S. Code 1301, and shall include air space needed to insure safety in take-off and landing of aircraft.

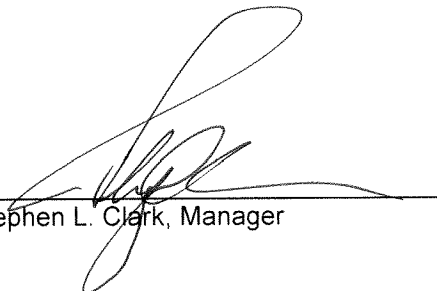
To have and to hold said easement forever.

IN WITNESS WHEREOF:

The Grantors have signed these presents this 4<sup>th</sup>, day of March, 2013.

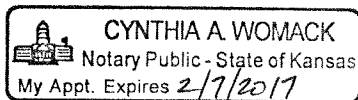
**BEECH LAKE INVESTMENT, LLC,**  
**A Kansas Limited Liability Company**  
**& also;**  
**THE WATERFRONT HOLDING CO., LLC,**  
**A Kansas Limited Liability Company**

By:   
Johnny Stevens, Manager

By:   
Stephen L. Clark, Manager

Sedgwick County            )  SS  
State of Kansas            )

Be it remembered that on this 4<sup>th</sup> day of March, 2013, before me a Notary Public in and for said State and County, came Johnny Stevens, Manager, and Stephen L. Clark, Manager, Beech Lake Investment, LLC, a Kansas Limited Liability Company, and also The Waterfront Holding Co., LLC, a Kansas Limited Liability Company, to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same. In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.



Notary Public: Cynthia A. Womack

My Appointment Expires: February 7, 2017

Approved as to form:

Gary E. Reinhardt, Director of Law

COPY

### RESTRICTIVE COVENANT

RESTRICTIVE COVENANT AFFECTING: All property platted as Waterfront Eighth Addition, an addition to Wichita, Sedgwick County, Kansas.

THIS DECLARATION made this 4<sup>th</sup> day of March, 2013, by Johnny Stevens, Manager, and Stephen L. Clark, Manager, Beech Lake Investment, LLC, a Kansas Limited Liability Company, and also The Waterfront Holding Co., LLC, a Kansas Limited Liability Company, hereinafter called the Grantors.

#### WITNESSETH:

WHEREAS, Grantors are owners of Waterfront Eighth Addition, an addition to Wichita, Sedgwick County, Kansas, which property is located near McConnell Air Force Base and is accordingly subject to considerable noise from the operation of aircraft, and is exposed at times to aircraft noise which may infringe upon the owners enjoyment of property and may, depending upon the degree of acoustical treatment of the structure, affect his health and/or well being, and

WHEREAS, the City of Wichita in connection with approval of the plat of said addition considers it to be in the public interest to require any building constructed in said addition to be designed and constructed giving proper consideration to noise pollution in the area.

NOW THEREFORE, Grantors, hereby declare that Waterfront Eighth Addition, shall be and the same is subjected to the following restrictive covenant, to wit:

Any building constructed on the premises shall be so designed and constructed as to minimize noise pollution in any such structure, giving due consideration to the use for which such structure is designed and built. This covenant is for the benefit of said property and shall run with the land and shall inure to the benefit of and pass with said property and shall apply to and bind the successors in interest and any owner thereof.

The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

EXECUTED the day and year first above written.





COPY

### RESTRICTIVE COVENANT

This covenant, executed this 4th day of March, 2013.

W I T N E S S E T H: That,

WHEREAS, the undersigned is in the process of platting that certain real property to be known as Waterfront Eighth Addition, an addition to Wichita, Sedgwick County, Kansas; and

WHEREAS, as a part of the platting process certain requirements have been made by The City of Wichita regarding ownership and maintenance of reserves being platted the establishment of an owners association, prohibiting on-street parking, and providing for the maintenance of drainage reserves being platted.

NOW, THEREFORE, the undersigned does hereby subject Waterfront Eighth Addition, an addition to Wichita, Sedgwick County, Kansas, to have the following covenants and restrictions.

1. At such time as the property shall become developed by erection of improvements thereon the undersigned agrees to cause an association to be formed to provide for the care, maintenance and upkeep of the reserves, and the common areas.
2. The reserves located in said Addition will be conveyed to the association at such time as the project is sold to or occupied by owners or tenants other than the undersigned.
3. Until said reserves are so conveyed, the ownership and maintenance of the reserves shall be by the undersigned.
4. The owners of the reserves shall bear the cost of any repair or replacement of improvements within said reserves resulting from street construction, repair or maintenance.
5. That Waterfront Eighth Addition being a replat of a portion of Waterfront Sixth Addition will continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
6. There shall be "No Parking" on both sides of Stonegate Ln.
7. The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.
8. In the event that the Undersigned or the association, its' successors or assigns, shall fail to maintain the Reserves dedicated for Drainage or fail in any manner to fulfill their obligation relating to said Reserves dedicated for Drainage, the City of Wichita may serve a written Notice of Delinquency upon the Undersigned or the Association setting forth the manner in which the Undersigned or the Association has failed to fulfill its' obligations. Such Notice shall include a statement describing the obligation that has not been fulfilled and shall grant twenty (20) days within which the Undersigned or the Association may fulfill the obligation. If said obligation is not fulfilled within the time specified, the City of Wichita, in order to preserve the taxable value of the properties within the Addition and to prevent said Reserves dedicated for Drainage from becoming a nuisance, may enter upon said Reserves dedicated for Drainage and perform the

obligations listed in the Notice of Delinquency. All costs incurred by the City of Wichita in carrying out the obligations of the Undersigned or the Association may be assessed against said Reserves in the same manner as provided by law for such assessments and said assessments may be established as liens upon said Reserves. Should the Undersigned or the Association, its successors or assigns, upon receipt of said Notice of Delinquency believe that the obligations described in said Notice are not proper for any reason, it may, within the twenty-day period to be provided in said Notice, apply for a hearing before the City Council to appeal said assessments, and any further proceedings under said Notice shall be suspended pending the outcome of any proceedings with respect to such appeal.

This covenant runs with the land and is binding on future owners and assigns.

IN WITNESS WHEREOF THIS covenant has been executed by the undersigned as its act and deed upon this 4<sup>th</sup> day of March, 2013.

**BEECH LAKE INVESTMENT, LLC,**  
**A Kansas Limited Liability Company**  
**& also;**  
**THE WATERFRONT HOLDING CO., LLC,**  
**A Kansas Limited Liability Company**

By: \_\_\_\_\_

Johnny Stevens, Manager

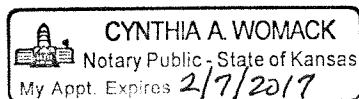
By: \_\_\_\_\_

Stephen L. Clark, Manager

Sedgwick County     ) SS  
State of Kansas     )

Be it remembered that on this 4<sup>th</sup> day of March, 2013, before me a Notary Public in and for said State and County, came Johnny Stevens, Manager, and Stephen L. Clark, Manager, Beech Lake Investment, LLC, a Kansas Limited Liability Company; and also The Waterfront Holding Co., LLC, a Kansas Limited Liability Company, to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same. In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

SEAL



Notary Public: \_\_\_\_\_

Cynthia A. Womack

My Appointment Expires: February 7, 2017

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council

**SUBJECT:** SUB2012-00037 -- Plat of Johnson Estates Addition located south of Harry, on the west side of 127<sup>th</sup> Street East (District II)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

---

**Staff Recommendation:** Approve the plat.

**MAPC Recommendation:** Approve the plat. (9-0-1)



**Background:** The site, consisting of one lot on .96 acres, is located within Wichita.

**Analysis:** Water and sewer services are available to serve the site. The applicant has submitted a Joint Access Opening Easement to allow for a shared driveway between the lots.

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

**Financial Considerations:** There are no financial considerations associated with the plat.

**Legal Considerations:** The Law Department has reviewed and approved the Joint Access Opening Easement as to form and the document will be recorded with the Register of Deeds.

**Recommendations/Actions:** It is recommended that the City Council approve the document and plat and authorize the necessary signatures.

**Attachments:** Joint Access Opening Easement.

**JOINT ACCESS OPENING EASEMENT**

WHEREAS, Jay W. Johnson and Bonnie A. Johnson, Trustees of the Jay and Bonnie Johnson Living Trust dated May 27, 2010 are the owners of the real property hereinafter described:

Lots 1 and 2, Block 1,  
Johnson Estates, an Addition  
to Wichita, Sedgwick County, Kansas

and

WHEREAS it is determined that it is in the best interests of the parties and their successors and assigns that a certain common easement, as hereinafter described, be established and conveyed for the use and benefit of all the parties hereto, their successors, assigns, and licensees.

NOW, THEREFORE, be it known that the undersigned do hereby grant and convey for themselves, their successors, grantees, licensees and assignees in interest, the right to use for ingress and egress the access easement as hereinafter setforth.

Joint Access Opening Easement for ingress and egress to and from Lots 1 and 2, Block 1, Johnson Estates, from 127th St. E., over and across the following real estate:

The east 20.00 feet of the south 30.00 feet of Lot 1 AND the east 20.00 feet of the north 20.00 feet of Lot 2, Block 1, Johnson Estates, an Addition to Wichita, Sedgwick County, Kansas.

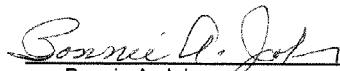
It is agreed that such easement shall be a perpetual easement running with the land and shall be binding upon the grantors herein, their grantees, their heirs, assigns, licensees, successors, and assignees in interest.

It is further contracted and covenanted that such easement shall be for driveway, ingress, and egress purposes and such easement shall not be used for parking purposes or utilized in any manner so as to impede or inconvenience the use of such easement for the purposes herein setforth. Maintenance of said easement shall be in the mutual interests and responsibilities to all parties interest and their successors, heirs, and/or assigns.

In testimony whereof the undersigned has set their hands this 22<sup>ND</sup> day of JANUARY, 2013.

Jay and Bonnie Johnson Living Trust dated May 27, 2010

  
Jay W. Johnson

  
Bonnie A. Johnson

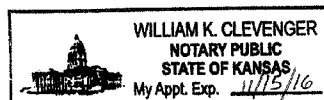
State of Kansas )  
                          ) SS  
Sedgwick County )

The foregoing instrument acknowledged before me this 22<sup>ND</sup> day of JANUARY,

2013, by Jay W. Johnson and Bonnie A. Johnson, Trustees of the Jay and Bonnie Johnson Living Trust dated May 27, 2010.

 Notary Public

My appointment expires 11/15/16



City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Mayor and City Council

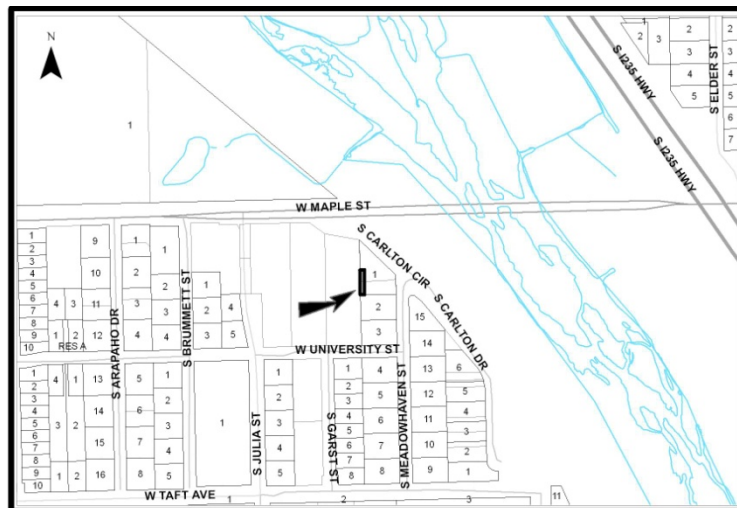
**SUBJECT:** DED2013-00007 Dedication of Utility Easement located south of Maple, west of Hoover. (District IV)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA ACTION:** Planning (Consent)

---

**Staff Recommendation:** Accept the Dedication.



**Background:** The Dedication is associated with Lot Split Case No. LSP2013-04 (Westwood Addition) and was requested by the City of Wichita Public Works and Utilities Department.

**Analysis:** The Dedication DED2013-00007 is for the purpose of constructing, operating, maintaining and repairing utilities.

**Financial Considerations:** There are no financial considerations associated with the Dedication.

**Legal Considerations:** The Law Department has approved the Dedication as to form and the document will be recorded with the Register of Deeds.

**Recommendations/Actions:** It is recommended that the City Council accept the Dedication.

**Attachment:** Dedication of Utility Easement.

COPY

**UTILITY EASEMENT**

THIS EASEMENT made this 7th day of March, 2013, by and between Starkey, Inc., a Kansas Corporation, party of the first part, and the City of Wichita, party of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant and convey unto the said second party, for the benefit of the public, a perpetual right-of-way and easement for the purpose of constructing, maintaining, and repairing sewer, and all other public utilities, over, along, and under the following-described real estate situated in Sedgwick County, Kansas, to-wit:

The west 20.00 feet of the south 118.00 feet of Lot 1,  
Westwood, Sedgwick County, Kansas.

And said second party, for the benefit of the public, is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such sewer, all other public utilities.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first above written.

Starkey, Inc.

By:   
Colin McKenney, CEO

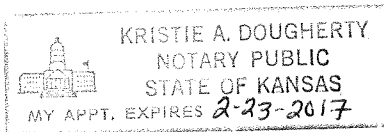
STATE OF KANSAS            )  
COUNTY OF SEDGWICK    )    SS:

BE IT REMEMBERED, that on this 7<sup>th</sup> day of March, 2013,  
before me, the undersigned, a Notary Public, in and for the County and State  
aforesaid, came Colin McKenney as CEO  
of Starkey, Inc., a Kansas Corporation, personally known to me to be the same  
persons who executed the within instrument of writing and such persons duly  
acknowledged the execution of the same, for and on behalf and as the act and deed of  
said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official  
seal the day and year above written.

Kristie A. Dougherty  
Notary Public

(My Appointment Expires February 23, 2017)



Approved as to form:

Gary E. Rebenstorf, Director of Law



City of Wichita  
City Council Meeting  
April 16, 2013

**TO:** Wichita Housing Authority Board

**SUBJECT:** 2013 Mainstream Funding Submission

**INITIATED BY:** Housing and Community Services Department

**AGENDA:** Wichita Housing Authority Board (Consent)

---

**Recommendation:** Approve submission of the 2013 requisition for payment of annual contributions for the Section 8 Mainstream Program and authorize the necessary signatures.

**Background:** The U.S. Department of Housing and Urban Development (HUD) requires that the Wichita Housing Authority (WHA) annually submit Section 8 Mainstream budgets for HUD approval. The budget estimates the housing assistance and administrative fees necessary to support the 75 Mainstream housing choice vouchers that HUD has allocated for the WHA to help persons with disabilities obtain affordable housing. The Mainstream program allows a client to locate his or her own rental housing unit and the WHA subsidizes the rent through housing assistance payments to the landlord. The subsidy amount is based on the client's household income.

**Analysis:** The 2013 Mainstream budget is estimated to be \$313,131 for the period of January 1, 2013 through December 31, 2013. This will fund subsidies for 75 vouchers and will also fund administrative costs which are calculated according to the actual number of months the vouchers are in use.

**Financial Considerations:** The program is completely funded by HUD grants. No local tax funds will be required for this program.

**Legal Considerations:** The required forms have been reviewed and approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended the Wichita Housing Authority Board approve submission of the 2013 requisition for payment of annual contributions for the Section 8 Mainstream Program and authorize the necessary signatures.

**Attachments:**

HUD Form-52663	HUD Form-50071
HUD Form-52673	Standard Form-LLL
HUD Form-52672	Standard Form-424
HUD Form-50070	

# Certification for a Drug-Free Workplace

U.S. Department of Housing  
and Urban Development

Applicant Name

Program/Activity Receiving Federal Grant Funding

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

**2. Sites for Work Performance.** The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Check here ☐ if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.  
(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Title

Signature

Date

X

# Certification of Payments to Influence Federal Transactions

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing

OMB Approval No. 2577-0157 (Exp. 01/31/2014)

Applicant Name	CITY OF WICHITA, KANSAS, DEPARTMENT OF HOUSING AND COMMUNITY SERVICES	
	( WICHITA HOUSING AUTHORITY) 332 N. RIVERVIEW, WICHITA, KS	Program/Activity Receiving Federal Grant Funding

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.
- This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.  
**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Signature	Date (mm/dd/yyyy)

# DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance		<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award		<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____	
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  City of Wichita, KS-Housing & Community Services (Wichita Housing Authority) 332 N. Riverview, Wichita, Kansas 67203 Congressional District, if known			<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>  Congressional District if known:		
<b>6. Federal Department/Agency:</b>			<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____		
<b>8. Federal Action Number, if known:</b>			<b>9. Award Amount, if known:</b> \$ _____		
<b>10. a. Name and Address of Lobbying Registrant</b> (if individual, last name, first name, MI):			<b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI):		
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.			Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____		
<b>Federal Use Only:</b>				Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)	

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

# Application for Federal Assistance SF-424

Version 02

*1. Type of Submission		*2. Type of Application		*If Revision, select appropriate letter(s):	
<input type="checkbox"/> Preapplication		<input type="checkbox"/> New			
<input type="checkbox"/> Application		<input type="checkbox"/> Continuation		* Other (Specify)	
<input type="checkbox"/> Changed/Corrected Application		<input type="checkbox"/> Revision			
*3. Date Received:		4. Application Identifier:			
5a. Federal Entity Identifier:			*5b. Federal Award Identifier:		
<b>State Use Only:</b>					
6. Date Received by State:			7. State Application Identifier:		
<b>8. APPLICANT INFORMATION:</b>					
* a. Legal Name:					
* b. Employer/Taxpayer Identification Number (EIN/TIN):				*c. Organizational DUNS:	
<b>d. Address:</b>					
*Street1:					
Street 2:					
*City:					
County:					
*State:					
Province:					
Country:					
*Zip/ Postal Code:					
<b>e. Organizational Unit:</b>					
Department Name:				Division Name:	
<b>f. Name and contact information of person to be contacted on matters involving this application:</b>					
Prefix:		First Name:			
Middle Name:					
*Last Name:					
Suffix:					
Title:					
Organizational Affiliation:					
*Telephone Number:				Fax Number:	
*Email:					

## Application for Federal Assistance SF-424

Version 02

9. Type of Applicant 1: Select Applicant Type:

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\*Other (specify):

\*10. Name of Federal Agency:

11. Catalog of Federal Domestic Assistance Number:

CFDA Title:

\*12. Funding Opportunity Number:

\*Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

\*15. Descriptive Title of Applicant's Project:

**Attach supporting documents as specified in agency instructions.**

<b>Application for Federal Assistance SF-424</b>		Version 02
16. Congressional Districts Of:		
*a. Applicant	*b. Program/Project:	
Attach an additional list of Program/Project Congressional Districts if needed.		
17. Proposed Project:		
*a. Start Date:	*b. End Date:	
<b>18. Estimated Funding (\$):</b>		
*a. Federal *b. Applicant *c. State *d. Local *e. Other *f. Program Income *g. TOTAL		
<b>*19. Is Application Subject to Review By State Under Executive Order 12372 Process?</b>		
<input type="checkbox"/> a. This application was made available to the State under the Executive Order 12372 Process for review on <input type="checkbox"/> b. Program is subject to E.O. 12372 but has not been selected by the State for review. <input type="checkbox"/> c. Program is not covered by E.O. 12372		
*20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.) <input type="checkbox"/> Yes <input type="checkbox"/> No		
21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)  <input type="checkbox"/> **I AGREE		
** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.		
<b>Authorized Representative:</b>		
Prefix:	*First Name:	
Middle Name:		
*Last Name:		
Suffix:		
*Title:		
*Telephone Number:		
		Fax Number:
*Email:		
*Signature of Authorized Representative:		Date Signed:



## Application for Federal Assistance SF-424

Version 02

### \*Applicant Federal Debt Delinquency Explanation

The following field should contain an explanation if the Applicant organization is delinquent on any Federal Debt. Maximum number of characters that can be entered is 4,000. Try and avoid extra spaces and carriage returns to maximize the availability of space.

# INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

This is a standard form (including the continuation sheet) required for use as a cover sheet for submission of preapplications and applications and related information under discretionary programs. Some of the items are required and some are optional at the discretion of the applicant or the Federal agency (agency). Required items are identified with an asterisk on the form and are specified in the instructions below. In addition to the instructions provided below, applicants must consult agency instructions to determine specific requirements.

Item	Entry:	Item	Entry:
1.	<b>Type of Submission:</b> (Required): Select one type of submission in accordance with agency instructions. <ul style="list-style-type: none"> <li>• Preapplication</li> <li>• Application</li> <li>• Changed/Corrected Application – If requested by the agency, check if this submission is to change or correct a previously submitted application. Unless requested by the agency, applicants may not use this to submit changes after the closing date.</li> </ul>	10.	<b>Name Of Federal Agency:</b> (Required) Enter the name of the Federal agency from which assistance is being requested with this application.
		11.	<b>Catalog Of Federal Domestic Assistance Number/Title:</b> Enter the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested, as found in the program announcement, if applicable.
2.	<b>Type of Application:</b> (Required) Select one type of application in accordance with agency instructions. <ul style="list-style-type: none"> <li>• New – An application that is being submitted to an agency for the first time.</li> <li>• Continuation - An extension for an additional funding/budget period for a project with a projected completion date. This can include renewals.</li> <li>• Revision - Any change in the Federal Government's financial obligation or contingent liability from an existing obligation. If a revision, enter the appropriate letter(s). More than one may be selected. If "Other" is selected, please specify in text box provided. <ul style="list-style-type: none"> <li>A. Increase Award      B. Decrease Award</li> <li>C. Increase Duration      D. Decrease Duration</li> <li>E. Other (specify)</li> </ul> </li> </ul>	12.	<b>Funding Opportunity Number/Title:</b> (Required) Enter the Funding Opportunity Number and title of the opportunity under which assistance is requested, as found in the program announcement.
		13.	<b>Competition Identification Number/Title:</b> Enter the Competition Identification Number and title of the competition under which assistance is requested, if applicable.
		14.	<b>Areas Affected By Project:</b> List the areas or entities using the categories (e.g., cities, counties, states, etc.) specified in agency instructions. Use the continuation sheet to enter additional areas, if needed.
3.	<b>Date Received:</b> Leave this field blank. This date will be assigned by the Federal agency.	15.	<b>Descriptive Title of Applicant's Project:</b> (Required) Enter a brief descriptive title of the project. If appropriate, attach a map showing project location (e.g., construction or real property projects). For preapplications, attach a summary description of the project.
4.	<b>Applicant Identifier:</b> Enter the entity identifier assigned by the Federal agency, if any, or applicant's control number, if applicable.		
5a.	<b>Federal Entity Identifier:</b> Enter the number assigned to your organization by the Federal Agency, if any.	16.	<b>Congressional Districts Of:</b> (Required) 16a. Enter the applicant's Congressional District, and 16b. Enter all District(s) affected by the program or project. Enter in the format: 2 characters State Abbreviation – 3 characters District Number, e.g., CA-005 for California 5 <sup>th</sup> district, CA-012 for California 12 <sup>th</sup> district, NC-103 for North Carolina's 103 <sup>rd</sup> district. <ul style="list-style-type: none"> <li>• If all congressional districts in a state are affected, enter "all" for the district number, e.g., MD-all for all congressional districts in Maryland.</li> <li>• If nationwide, i.e. all districts within all states are affected, enter US-all.</li> <li>• If the program/project is outside the US, enter 00-000.</li> </ul>
5b.	<b>Federal Award Identifier:</b> For new applications leave blank. For a continuation or revision to an existing award, enter the previously assigned Federal award identifier number. If a changed/corrected application, enter the Federal Identifier in accordance with agency instructions.		
6.	<b>Date Received by State:</b> Leave this field blank. This date will be assigned by the State, if applicable.		
7.	<b>State Application Identifier:</b> Leave this field blank. This identifier will be assigned by the State, if applicable.		
8.	<b>Applicant Information:</b> Enter the following in accordance with agency instructions: <ul style="list-style-type: none"> <li><b>a. Legal Name:</b> (Required): Enter the legal name of applicant that will undertake the assistance activity. This is the name that the organization has registered with the Central Contractor Registry. Information on registering with CCR may be obtained by visiting the Grants.gov website.</li> <li><b>b. Employer/Taxpayer Number (EIN/TIN):</b> (Required): Enter the Employer or Taxpayer Identification Number (EIN or TIN) as assigned by the Internal Revenue Service. If your organization is not in the US, enter 44-4444444.</li> <li><b>c. Organizational DUNS:</b> (Required) Enter the organization's DUNS or DUNS+4 number received from Dun and Bradstreet. Information on obtaining a DUNS number may be obtained by visiting the Grants.gov website.</li> <li><b>d. Address:</b> Enter the complete address as follows: Street address (Line 1 required), City (Required), County, State (Required, if country is US), Province, Country (Required), Zip/Postal Code (Required, if country is US).</li> <li><b>e. Organizational Unit:</b> Enter the name of the primary organizational unit (and department or division, if applicable) that will undertake the</li> </ul>	17.	<b>Proposed Project Start and End Dates:</b> (Required) Enter the proposed start date and end date of the project.
		18.	<b>Estimated Funding:</b> (Required) Enter the amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines, as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses.
		19.	<b>Is Application Subject to Review by State Under Executive Order 12372 Process?</b> Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the

	assistance activity, if applicable.			State intergovernmental review process. Select the appropriate box. If "a." is selected, enter the date the application was submitted to the State
	<b>f. Name and contact information of person to be contacted on matters involving this application:</b> Enter the name (First and last name required), organizational affiliation (if affiliated with an organization other than the applicant organization), telephone number (Required), fax number, and email address (Required) of the person to contact on matters related to this application.			20. <b>Is the Applicant Delinquent on any Federal Debt?</b> (Required) Select the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.  If yes, include an explanation on the continuation sheet.
9.	Type of Applicant: (Required) Select up to three applicant type(s) in accordance with agency instructions.		21.	<b>Authorized Representative:</b> (Required) To be signed and dated by the authorized representative of the applicant organization. Enter the name (First and last name required) title (Required), telephone number (Required), fax number, and email address (Required) of the person authorized to sign for the applicant.  A copy of the governing body's authorization for you to sign this application as the official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)
	A. State Government B. County Government C. City or Township Government D. Special District Government E. Regional Organization F. U.S. Territory or Possession G. Independent School District H. Public/State Controlled Institution of Higher Education I. Indian/Native American Tribal Government (Federally Recognized) J. Indian/Native American Tribal Government (Other than Federally Recognized) K. Indian/Native American Tribally Designated Organization L. Public/Indian Housing Authority	M. Nonprofit with 501C3 IRS Status (Other than Institution of Higher Education) N. Nonprofit without 501C3 IRS Status (Other than Institution of Higher Education) O. Private Institution of Higher Education P. Individual Q. For-Profit Organization (Other than Small Business) R. Small Business S. Hispanic-serving Institution T. Historically Black Colleges and Universities (HBCUs) U. Tribally Controlled Colleges and Universities (TCCUs) V. Alaska Native and Native Hawaiian Serving Institutions W. Non-domestic (non-US) Entity X. Other (specify)		

# Suggested Format for Requisition for Partial Payment of Annual Contributions Section 8 Housing Assistance Payments Program

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing

OMB Approval No. 2577-0169  
(Exp. 04/30/2014)

Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless that collection displays a valid OMB control number. Authority for this collection of information is the Housing and Community Development Act of 1987. Housing Agencies (HAs) required to maintain financial reports in accordance with accepted accounting standards too permit timely and effective audits. The financial records identify the amount of annual contributions that are received and disbursed by HAs. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

1. Date of Requisition (mm/dd/yyyy)		2. No. of Months in 1st FY		4. Public Housing Agency (HA) (Name and Address)	
3. Project Number					
5. Housing Program Type (Mark one) <input type="checkbox"/> (a) Moderate Rehabilitation <input type="checkbox"/> (c) Rental Vouchers <input type="checkbox"/> (b) Rental Certificates		6. HA Fiscal Year Ending Date (Mark one box and complete year) <input type="checkbox"/> March 31, <input type="checkbox"/> June 30, <input type="checkbox"/> September 30, <input type="checkbox"/> December 31, (YYYY) _____			
7. Number of Units Under Lease to Eligible Families as of Date of Requisition	8. Average Monthly Housing Assistance Payment Per Unit as of Date of Requisition	9. Estimated Number of Units to be Under Lease at End of Requested Year	10. Unit Months Under Lease Year to Date	11. Average Monthly Housing Assistance Payment Per Unit Year to Date	

					Funds Required for Requested Year
12. Preliminary Administrative and General Expense					
13. Estimated Housing Assistance Payments (Account 4715)					
14. Estimated Ongoing Administrative Fee					
15. Estimated Hard-to-House Fee (Existing Housing Certificates and Housing Vouchers Only)					
16. Independent Public Accountant Audit Costs (Section 8 Only)					
17. Total Funds Required to End of Requested Year (Sum of Lines 12 through 16)					
18. Payments Previously Approved for the Fiscal Year (applicable only to revised requisition)					
19. Adjustment to Requisition (Difference of Line 17 and Line 18. <b>Do not</b> use brackets)					
20. Total Payment Requirement For Requested Year (Line 18 plus or minus adjustment on Line 19 if revised requisition. Total must equal Line 17)					

21. ☐ Paid in Equal Installments (Original Requisition Only) ☐ Paid in Unequal Installments

22. Installment	1	2	3	4	5	6
HA Total						
HUD Revision						
Installment	7	8	9	10	11	12
HA Total						
HUD Revision						

23a. Total (HA) \$	23b. Total (HUD) \$	24. Revised Monthly Installments Begin Month Of:
-----------------------	------------------------	---

I Certify that (1) housing assistance payments have been or will be made only in accordance with Housing Assistance Payments Contracts or Housing Voucher contracts in the form prescribed by HUD and in accordance with HUD regulations and requirements; (2) units have been inspected by the HA in accordance with HUD regulations and requirements; and (3) this requisition for annual contributions has been examined by me and to the best of my knowledge and belief is true, correct and complete.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Title of Authorized HA Official		Title of Authorized HUD Approving Official	
Signature	Date (mm/dd/yyyy)	Signature	Date (mm/dd/yyyy)

# Supporting Data for Annual Contributions Estimates

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing

OMB Approval No. 2577-0169  
(Exp. 4/30/2014)

## Section 8 Housing Assistance Payments Program

Public reporting burden for this collection of information is estimated to average 1.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection display a valid OMB control number. Assurances of confidentiality are not provided under this collection. Authority for this collection of information is the Housing and Community Development Act of 1987. Housing Agencies (HAs) required to maintain financial reports in accordance with accepted accounting standards to permit timely and effective audits. The financial records identify the amount of annual contributions that are received and disbursed by HAs. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

1. Public Housing Agency (Name and Address)

**Housing and Community Services**  
**332 N. Riverview**  
**Wichita, Kansas 67203**  
**Wichita Housing Authority**

2. Project No. <b>KS004DV0001</b>	
3. Submission <b>X</b> Original _____ Revision No. _____	
4. No. of Dwelling Units <b>75</b>	5. No. of Unit Months <b>900</b>

Part I Estimate of Annual Housing Assistance Payments Required	Bedroom Size Of Dwelling Units	Number of Dwelling Units	Monthly Gross Rent /Payment Standard	Amount Payable by Family Toward Gross Rent	Monthly Housing Assistance Payments	Unit Months Under Lease	Annual Housing Assistance Payments
6.	0BR					0	0
7.	1BR	57	581	337	244	684	166,896
8.	2BR	11	774	363	411	132	54,252
9.	3BR	7	1068	626	442	84	37,128
10.	4BR	-	-	-	-	-	-
11.	5BR	-	-	-	-	-	-
12.	6BR	-	-	-	-	-	-
75							

Based on Annual Leaseup of 900 Ums  
15. Total Due to rounding 12  
258,288

Part II Calculation of Estimated Ongoing Administrative Fee	Unit Months (a)	HUD Published 2-BR Fair Market Rent x (b)	Product of Columns (a) x (b) = (c)	Allowable Percent x (d)	Administrative Fee = (e)
16.	900	X	\$59.27		53,343
17.					0
18.	Total				53,343

Part III Calculation of Estimated Hard-To-House (Existing Housing Certificates and Housing Vouchers Only)		Estimated Number of Families (a)	Fee Per Family x (b)	Total Hard To House = (c)
19.		20	75	1,500

Part IV Calculation of Estimated Preliminary Expense		Requested Amount	
		Requested Amount	HUD Modifications
Administrative Expenses	20. FSS Coordinators V00F04		
	21. Employee Benefit Contributions		
	22. Legal Expense		
	23. Travel Expense		
	24. Sundry		
	25. Office Rent		
	26. Accounting and Auditing Fees		
Non-Expendable Equipment Expenses	27. Total Administrative Expenses		
	28. Office Equipment		
	29. Office Furnishings		
	30. Automotive		
	31. Other		
General Expense	32. Total Non-Expendable Equipment Expenses		
	33. Maint. and Operations (Non-Expend Equip Only)		
	34. Insurance		
	35. Sundry		
	36. Total General Expense		
Total Preliminary Expenses		37. Sum of Lines 27,32, and 36	

Submit three copies  
Previous Editions are obsolete

# Estimate of Total Required Annual Contributions

## Section 8 Housing Assistance Payments Program

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing

OMB Approval No. 2577-0169  
(Exp.9/30/2010)

Public reporting burden for this collection of information is estimated to average 1.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless that collection displays a valid OMB control number. Authority for this collection of information is the Housing and Community Development Act of 1987. Housing Agencies (HAs) required to maintain financial reports in accordance with accepted accounting standards too permit timely and effective audits. The financial records identify the amount of annual contributions that are received and disbursed by HAs. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

1. Public Housing Agency (Name and Address)	2. Project No.
	3. Submission <input type="checkbox"/> Original <input type="checkbox"/> Revision No. <input type="text"/>

4. Annual Contributions Contract No.	5. HUD Field Office	6. HUD Regional Office	7. No. Dwelling Units	8. No. Units Months
--------------------------------------	---------------------	------------------------	-----------------------	---------------------

9. Housing Program Type (Mark One)

☐ (a) New Construction ☐ (b) Substantial Rehabilitation ☐ (c) Moderate Rehabilitation ☐ (d) Existing Housing Certificates ☐ (e) Housing Vouchers

10. PHA Fiscal Year Ending Date (Mark one and complete year)

☐ (a) March 31, ☐ (b) June 30, ☐ (c) September 30, ☐ (d) December 31, YYYY

I. Maximum Annual Contributions	PHA Estimate (Housing Vouchers Only)			HUD Approved (Housing Vouchers Only)		
	Housing Payments	PHA Fee	PHA Estimate Total	Housing Payments	PHA Fee	HUD Approved Total
11. Maximum Annual Contributions Commitment						
12. Prorata Maximum Annual Contributions Applicable to a Period in Excess of 12 Months						
13. Maximum Annual Contributions for Fiscal Year (Line 11 plus Line 12)						
14. Project Account-Estimated or Actual Balance at Beginning of Requested Fiscal Year						
15. Total Annual Contributions Available—Estimated or Actual (Line 13 plus Line 14)						

II. Maximum Annual Contributions	PHA Estimate (Housing Vouchers Only)		PHA Estimate Total	HUD Approved (Housing Vouchers Only)		HUD Approved Total
	Housing Payments	PHA Fee		Housing Payments	PHA Fee	
16. Estimated Annual Housing Assistance Payments (form HUD-52672, Line 15)						
17. Estimated Ongoing Administrative Fee (form HUD-52672, Line 18)						
18. Estimated Hard-to-House Fee (form HUD-52672, Line 19)						
19. Estimated Independent Public Accountant Audit Costs						
20. Estimated Preliminary Administrative and General Expense (form HUD-52672, Lines 27 and 36)						
21. Carryover of Preliminary Administrative and General Expense not Expended in the Previous FY Ending ( )						
22. Estimated Non-Expendable Equipment Expense (form HUD-52672, Line 32)						
23. Carryover of Non-Expendable Equipment Expense not Expended in the Previous FY Ending ( )						
24. Total Annual Contributions Required—Requested Fiscal Year (Lines 16 through 23)						
25. Deficit at End of Current Fiscal Year—Estimated or Actual						
26. Total Annual Contributions Required (Line 24 plus Line 25)						
27. Estimated Project Account Balance at End of Requested Fiscal Year (Line 15 minus Line 26)						
28. Provision for Project Account Requested Fiscal Year Increase (decrease) (Line 27 minus Line 14)						

III. Annual Contributions Approved						
29. Total Annual Contributions Approved/Requested Fiscal Year (Line 26 plus increase, if any, on Line 28)						
30. Source of Total Contributions Approved/Requested Fiscal Year:						
(a) Requested Fiscal Year Maximum Annual Contributions Commitment (Line 13 or Line 29, whichever is smaller)						
(b) Project Account (Line 29 minus Line 30(a))						

Name of PHA Approving Official		Name of Approving HUD Field Office Official	
Signature		Signature	
Title	Date (mm/dd/yyyy)	Title	Date (mm/dd/yyyy)

**City of Wichita  
City Council Meeting  
April 16, 2013**

**TO:** Wichita Airport Authority

**SUBJECT:** EagleMed, LLC  
Supplemental Agreement No. 2 for use of 1761 Airport Road, Suite 400  
Wichita Mid-Continent Airport

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Approve the supplemental agreement.

**Background:** EagleMed, LLC (EagleMed) operates an emergency air ambulance service headquartered at Mid-Continent Airport. EagleMed leases a hangar and corporate office complex at 6601 Pueblo Road. In May 2012, the Wichita Airport Authority (WAA) approved an agreement with EagleMed to expand its operations to the multi-tenant Mid-Continent Executive Suites facility at 1761 Airport Road.

**Analysis:** Due to growth in its business, EagleMed is now desirous of leasing storage space of 1,503 square feet and trading one office for another office that is 13 square feet larger, bringing the total area leased to 6,036 square feet at Mid-Continent Executive Suites.

**Financial Considerations:** The facility rental for the office space is \$11 per sq. ft. per year and \$7.46 per sq. ft. per year for the storage space. This will result in new annual revenue of \$12,539.84. The total annual revenue to the WAA from EagleMed's use of this facility will be \$61,075.

**Legal Considerations:** The supplemental agreement has been approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the supplemental agreement and authorize the necessary signatures.

**Attachments:** Supplemental Agreement.



SUPPLEMENTAL AGREEMENT NO. 2

By and Between

WICHITA AIRPORT AUTHORITY  
Wichita, Kansas

and

EagleMed, LLC

for

Use of Facility – 1761 Airport Road – Suite 400  
Wichita Mid-Continent Airport  
Wichita, Kansas

THIS SUPPLEMENTAL AGREEMENT NO. 2 is entered into this April 16, 2013, between THE Wichita Airport Authority, Wichita, Kansas (LESSOR) and EAGLEMED, LLC, (LESSEE).

WHEREAS, the parties previously entered into an Agreement dated May 15, 2012 for use of the facility located at 1761 Airport Road, Suite 400, to be used and occupied for aviation purposes or purposes incidental or related thereto, with the primary purpose being for the operation of public air charter services and general office space of the LESSEE in the administration of its business; and

WHEREAS, the parties later entered into a Supplemental Agreement No. 1, dated August 21, 2012, for the purpose of additional office space; and

WHEREAS, the LESSOR and LESSEE now wish to enter into this Supplemental Agreement No. 2 for the purpose of leasing additional office at the multi-tenant facility commonly known as 1761 Airport Road, Wichita, Kansas, from the LESSOR:

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, LESSOR and LESSEE do hereby agree as follows:

## 1. PREMISES

Section 1, Premises, in the Primary Agreement shall be **modified** to add the following language:

LESSOR does hereby lease to LESSEE additional office and storage space to become part of the Premises located at 1761 Airport Road on Wichita Mid-Continent Airport, consisting of 4,533 square feet of office space and consisting of 1,503 of storage space, making the total area leased by LESSEE 6,036 square feet known as Suite 400, all referred to herein as the Premises, as outlined on Exhibit "A", attached hereto and made a part hereof.

## 2. FACILITY RENT DURING INITIAL TERM AND OPTION TERMS

Section 2, Facility Rent During Initial Term, in the Primary Agreement shall be **replaced** by the following language:

The parties hereby agree that the Facility Rent for the remainder of the first year of the Initial Term, beginning March 13, 2013 through April 30, 2013 shall be set at \$10.00 per square foot for the 4,533 square feet of **office space**. This **office space** rental will result for the month of March \$2,359.64 and for the month of April \$3,777.50.

The parties hereby agree that the Facility Rent beginning March 13, 2013 through April 30, 2014 shall be set at \$7.46 per square foot for the 1,503 square feet of **storage space**. This **storage space** rental will result in an annual payment of \$11,212.38, payable in monthly installments of \$934.37.

The Facility Rent for the second year of the Initial Term, effective May 1, 2013 through April 30, 2014, shall be set at \$11.00 per square foot for the 4,533 square feet of **office space**. This **office space** rental will result in an annual payment of \$49,863.00, payable in monthly installments of \$4,155.25.

The Facility Rent for the three (3) contemplated option terms, effective May 1, 2014, shall be set at \$12.00 per square foot per year for the 4,533 square feet of **office space** and \$7.46 per square foot for the 1,503 square feet of **storage space**. This **office and storage** rental will result in an annual payment of \$65,608.38 payable in monthly installments of \$5,467.37.

### 3. OTHER TERMS

It is understood and agreed that except as modified herein all other terms and conditions of the original Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By \_\_\_\_\_  
Karen Sublett, City Clerk

By \_\_\_\_\_  
Carl Brewer, President  
"LESSOR"

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

By \_\_\_\_\_

By \_\_\_\_\_  
Larry Bugg, President  
EAGLEMED, LLC  
"LESSEE"

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

**City of Wichita  
City Council Meeting  
April 16, 2013**

**TO:** Wichita Airport Authority

**SUBJECT:** Airfield Grounds Maintenance Services  
Wichita Mid-Continent Airport

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Approve contract.

**Background:** Requests for Proposals (RFPs) were accepted by the City of Wichita Purchasing Manager for the provision of airfield ground maintenance services outside the security area on Wichita Mid-Continent Airport. Four firms responded to the RFP. The Staff Screening and Selection committee reviewed the proposals and interviewed two (2) contractors.

**Analysis:** FAB Mowing was the selected contractor by unanimous vote of the selection committee based on the evaluation criteria of experience, equipment resources, and costs. In addition, the selected contractor demonstrated considerable knowledge and experience in the area of establishing native grasses, which will be an integral part of this contract. The term of the contract will be for three (3) years with two (2) one-year options.

**Financial Considerations:** The proposal submitted by FAB Mowing includes a not-to-exceed amount of \$17.50 per acre for mowing, \$7 per acre for herbicide and fertilizer spraying, and \$80 per acre for seeding which will include seed bed preparation or spraying based on the soil conditions. The actual yearly cost will vary based on the work required at the time to maintain the acreage. Funds in the amount of \$10,000 for this service are included in the airport operating budget.

**Legal Considerations:** The contract has been approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the contract and authorize the necessary signatures.

**Attachments:** Contract.

AGREEMENT

By and Between

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

and

Florence Bergkamp DBA F.B.  
FAB Mowing

for

Grounds Maintenance Services  
Wichita Mid-Continent Airport

THIS AGREEMENT, made and entered into this April 16<sup>th</sup>, 2013, by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, hereinafter referred to as the AUTHORITY; and FAB Mowing, herein after referred to as the CONTRACTOR.

WITNESSETH:

WHEREAS, the Authority is desirous of providing on-demand grounds maintenance services on Wichita Mid-Continent Airport; and

WHEREAS, the Contractor is willing to provide such services on an independent contractor basis;

NOW THEREFORE, for and in consideration as hereinafter set out, it is agreed by both parties as follows:

1. **Responsibilities.** Contractor shall provide grounds maintenance services on Wichita Mid-Continent Airport, Wichita, Kansas, as specified in EXHIBITS "A", and "B", attached hereto

and made a part hereof. All services will be in accordance with terms and conditions set forth herein.

In such cases where the maintenance of areas is rendered temporarily unsafe or inaccessible due to construction, utility work, or other such temporary complications which may occur due to no fault of the Contractor, then the Authority, at its option, may temporarily remove or modify such areas to be serviced by the Contractor until such time as affected areas are deemed safe and accessible.

2. **Term.** The term of this Agreement shall be for three (3) years, commencing April 16<sup>th</sup>, 2013 and terminating December 31<sup>st</sup>, 2016. This Agreement may be extended for two (2) additional one-year terms, subject to renegotiation of fees, and upon the approval of both the Authority and the Contractor. Such extension(s) must be in place no less than ninety (90) days before the end of this original Agreement.
3. **Cancellation.** Either party may terminate this Agreement without cause by giving forty-five (45) days notice in writing to the addresses of notice provided herein. The Authority may immediately terminate this Agreement with cause for unsatisfactory performance or other breach of the provisions of this Agreement, after Contractor's failure to satisfactorily remedy such breach after ten (10) days written notice. The Authority may immediately terminate the Agreement with cause without the ten (10) days notice upon the Authority's determination that such immediate termination is necessary for the protection of property or in the interests of public safety or welfare.
4. **Payment to Contractor.** Contractor agrees to provide services of grass mowing as outlined in this Agreement on a per acre/per mowing basis for an amount not to exceed \$17.50 per acre/per mowing. Contractor agrees to provide fertilizer application services as outlined in this Agreement on a per acre basis for an amount not to exceed \$7.00 per acre. Contractor agrees to provide broadleaf herbicide application services as outlined in this Agreement on a per acre basis for an amount not to exceed \$7.00 per acre. Contractor agrees to provide seeding services as outlined in this Agreement on a per acre basis for an amount not to exceed \$80.00 per acre.

The Authority, at its sole cost, shall be responsible for supplying the fertilizer, herbicide and seed material to the Contractor. However, upon mutual agreement between the Authority and the Contractor, the Contractor may provide the material and invoice the Authority for the direct cost of the material without handling or administrative fees added.

With ten (10) days advance written notice, the Authority shall have the right throughout the term of this Agreement to add or subtract areas to be serviced and/or increase or decrease service frequency.

Payment shall be approved upon receipt of a signed work-completed statement as specified under Paragraph 6, proper invoice from the Contractor, and compliance with other conditions set forth in this Agreement.

5. **Representation.** It is understood and agreed that Contractor shall at all times be deemed to be an independent contractor to the Authority. Nothing in this Agreement shall be construed or considered to create the relationship of employer and employee between the parties. Contractor is not an agent or employee of the Authority, and shall not be entitled to any of the benefits of Authority's employees.

All persons providing grounds maintenance services pursuant to this Agreement shall represent themselves as representatives of an independent contractor. Under no circumstances shall any grounds maintenance personnel represent themselves as employees or agents of any air carrier or the Authority. Any person providing grounds maintenance services is not an agent or employee of the Authority, and shall not be entitled to any of the benefits of Authority's employees.

6. **Inspection/Reporting.** Authority's authorized representative(s) will be designated at the beginning of the Agreement for the purpose of determining acceptability of the grounds maintenance services performed. The Authority's representative(s) shall also be responsible to act on the Authority's behalf in responding to Contractor's concerns, complaints, or other issues that may arise associated with the scope of services performed. Periodic inspections may be

conducted by the Authority to ensure compliance with the Agreement. The Contractor must have the Authority's approval prior to use of fertilizer and herbicide to verify content, weight, application rates, and condition of material to be used. Should the Contractor fail to perform any substantial portion of the work, the Authority may, at its option, withhold payment until such time that the work is satisfactorily completed. Contractor shall be required to make any improvements in maintenance services as are reasonably required by Authority.

In the event the Contractor fails to provide services as specified in this Agreement, the deficiencies noted will be called to the attention of the Contractor, and when so directed, must be remedied at the direction of, and within the time period specified by the Authority depending on the deficiency. If such deficiency is not remedied within the specified time period, the Authority may perform the necessary service at the Contractor's expense.

Upon demand, and at the Authority's option, the Authority's authorized representative shall be notified when any work related to maintenance services commences, and upon completion of such work on a daily basis. If work is to be interrupted and not completed on a continuing daily basis once commenced, this shall be reported, as well as the length of the delay anticipated.

7. **Contractor to Furnish.** Contractor shall furnish, for the amount(s) specified under Paragraph 4 and at no additional cost to the Authority, all necessary labor, equipment and fuel required in the performance of grounds maintenance services as set forth herein.
8. **Authority to Furnish.** If the rental of special seeding equipment, related to the planting of native grasses is necessary, it shall be at the sole cost of the Authority. The Authority, at its sole cost, shall be responsible for supplying the fertilizer, herbicide and seed material to the Contractor. However, upon mutual agreement between the Authority and the Contractor, the Contractor may provide the material and invoice the Authority for the direct cost of the material without handling or administrative fees added.
9. **Damages.** Any damage or loss to the facilities arising out of the work performed by the Contractor under this Agreement shall be the responsibility of the Contractor. The Authority



may, at its option, replace or repair such damage or loss, and reduce its payments to the Contractor by an equal amount.

10. **Rules and Regulations.** Contractor agrees to abide by all rules and regulations promulgated by the Authority as deemed necessary by Authority in connection with prudent airport operations and safety.
11. **Bid Documents.** It is understood that all bid documents received by the Contractor for this project are hereby incorporated into this Agreement by reference.
12. **Indemnity.** Contractor shall protect, defend and hold harmless the Authority and the City of Wichita, and their officers, elected officials, agents and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court cost and expert fees), of any nature whatsoever arising out of or incident to this Agreement and/or the use or occupancy of Wichita Mid-Continent Airport by Contractor or the acts or omissions of Contractor's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage may occur, except to the extent such injury, death or damage is caused by the negligence of the Authority. The Authority shall give to Contractor reasonable notice of any such claims or actions. The Contractor shall also use counsel reasonably acceptable to Authority in carrying out its obligations hereunder. The provisions of this section shall survive the expiration or early termination of this agreement.

Authority and the City of Wichita shall be held harmless for any and all breaches of Federal Aviation Administration, Transportation Security Administration and/or Authority's security rules or regulations arising out of any act or omission by the Contractor, its agents or employees, that occurs on Wichita Mid-Continent Airport, except to the extent caused by Authority. In the event the Federal Aviation Administration or Transportation Security Administration imposes a fine or penalty for any such security violation, whether such fine or penalty is assessed to Authority or Contractor or their agents or employees, the penalty shall be paid by the Contractor, provided, however, that nothing herein shall prevent the Contractor from contesting

the legality, validity or application of such fine or penalty to the full extent Contractor may be lawfully entitled so to do.

13. **Insurance.** Contractor agrees to maintain in effect during the term of this Agreement the following commercial insurance:

1. General Liability - Bodily Injury Liability  
\$1,000,000 Each Occurrence  
\$1,000,000 Aggregate

Property Damage Liability  
\$1,000,000 Each Occurrence  
\$1,000,000 Aggregate

or

Bodily Injury and Property Damage Liability (CSL)  
\$1,000,000 Each Occurrence  
\$1,000,000 Aggregate

2. Automobile Liability - Comprehensive Form, including all owned, hired and non-owned vehicles, with minimum limits for:

Bodily Injury - \$1,000,000 Each Accident  
Property Damage - \$1,000,000 Each Accident

or

Bodily Injury and Property Damage (CSL)  
\$1,000,000 Each Accident

3. Workers' Compensation/Employers Liability – For minimum statutory limits.

A Certificate of Insurance shall be provided to the Authority prior to the commencement of any work under this Agreement, naming the Wichita Airport Authority and the City of Wichita as additional insured as it relates to the commercial general liability policy. The policies provided shall be acceptable to the Authority in its discretion, and the full policies shall be subject to Authority review prior to acceptance. The Certificate must also state that the Authority will be given written notice of cancellation equal to that provided by the policy owner.

14. **Non-discrimination EEO/AAP.** The Contractor shall not discriminate on the grounds of race, color, sex, religion, national origin, ancestry, handicap, or age except where age is a bona fide occupational qualification, in its operations or services. The Contractor shall not discriminate or permit discrimination against any person or groups of persons in violation of any federal, state or local laws, or of Part 21 of the Regulations of the Office of the United States Department of Transportation (49 CFR 21). The contractor, in performing the work or services required pursuant to this Agreement, shall not participate either directly or indirectly in discriminations prohibited by the nondiscrimination requirements of the City of Wichita, Kansas, as set out in Exhibit "C", attached hereto and incorporated herein by reference. The Authority reserves the right to take such action as the United States Government or any state or local government may direct to enforce this covenant.

Contractor assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Contractor assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Contractor assures that it will require that its covered suborganizations provide assurances to the Authority that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

15. **Assignment.** Contractor shall not assign this Agreement without the written consent of Authority. Any such assignment without such consent shall be void, and shall, at the option of the Authority, immediately terminate this Agreement.
16. **Notices.** Notices to Authority provided for herein shall be sufficient if sent by registered or certified mail, postage prepaid, addressed to:

The Wichita Airport Authority  
Wichita Mid-Continent Airport

2173 Air Cargo Road  
Wichita, Kansas 67209-1958

Notices to Contractor provided for herein shall be sufficient if sent by registered or certified mail, postage prepaid, addressed to:

Florence Bergkamp  
8231 W. 55<sup>th</sup> St. S.  
Clearwater, KS 67026

or to such other respective addresses as the parties may designate in writing from time to time.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By \_\_\_\_\_  
Karen Sublett, City Clerk

By \_\_\_\_\_  
Carl Brewer, President  
"AUTHORITY"

By  \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

FAB Mowing

By \_\_\_\_\_ By \_\_\_\_\_

By \_\_\_\_\_ By \_\_\_\_\_

Title \_\_\_\_\_ By \_\_\_\_\_

“CONTRACTOR”

APPROVED AS TO FORM: Gay E. McHenry/KM Date: 3-28-13  
Director of Law

## **EXHIBIT A**

### **GROUNDS MAINTENANCE SPECIFICATIONS**

These specifications set forth the requirements for work to be performed under this Agreement that shall consist of the application of herbicides, fertilizer, mowing, and seeding to be provided at Wichita Mid-Continent Airport, Wichita, Kansas, on an as-needed on-demand basis between the period of January 1 and December 31 throughout the term of this Agreement.

#### **1. GENERAL INFORMATION**

##### **A. Scope**

Areas for which grounds maintenance services are to be performed is owned by the Wichita Airport Authority. The Authority has chosen to contract with an outside company to provide on-demand chemical application, planting, and mowing services as further defined in this EXHIBIT "A" in the general area located on and near Wichita Mid-Continent Airport as reflected in EXHIBIT "B".

The Contractor shall provide all labor, fuel and equipment necessary to perform the services described herein. The work schedule will be jointly agreed upon by the Authority and the Contractor.

##### **B. Contractor Personnel and Property**

The Contractor shall arrange for adequate supervision of work to be performed under this Agreement, and shall provide, in writing, a list of all authorized personnel as well as proposed work schedule. A supervisor must be on duty at any time work is being performed under this Agreement. For the purposes of this Agreement, a "supervisor" is defined as any employee of the Contractor designated as being authorized by his or her employer to act as supervisor, foreman or lead worker, who is responsible for work tasks to be performed, and shall have the authority to respond quickly to problems, complaints or other issues which may arise regarding services to be performed under this Agreement. The Contractor shall provide 24-hour phone and/or pager numbers of supervisory and management personnel that is assigned to this contract. If required by the Authority, Contractor's personnel may be required to display, on the outside garment, an Authority-issued identification badge.

The Contractor shall not employ persons for work under this Agreement if such employee is identified to the Contractor by the Authority as a potential threat to the health, safety, security, and general well being of the public or airport patronage. Contractor's personnel shall remain fully dressed while performing work under this Agreement.

### **C. Contractor Storage**

On site temporary storage of the Contractor's equipment is permitted, provided however, the Contractor assumes full liability and responsibility for the safety and security of personal property stored on Airport property and the Authority neither assumes nor accepts liability or responsibility of the safety and security of such property.

### **D. Safety and General Operating Instructions**

All equipment owned and/or utilized by the Contractor shall be properly identified and maintained in a safe, sightly and usable condition at all times. If so directed by the Authority, the Contractor's auto vehicles shall be properly identified, and prominently display the company name and/or logo. The Authority shall have the right to stop the Contractor's use of unsafe, hazardous or unsightly equipment. The Authority shall have the right to require the Contractor to repair or replace hazardous or unsightly equipment. The Contractor shall perform the work in a manner that does not create a safety hazard for Contractor's employees, Authority's employees, airport tenants, or the public, and shall warn users of temporary hazards.

The Contractor shall maintain, and make available for inspection by the Authority on demand, all material safety data sheets (MSDS) for chemicals classified as hazardous materials used under this Agreement.

### **E. Work Schedule**

Work shall be performed by the Contractor on an as-needed on-demand basis at the sole determination and discretion of the Authority. Services under this Agreement shall be performed by the Contractor within ten (10) calendar days of request by the Authority or unless otherwise approved by the Authority.

### **F. Inspections and Deficiencies**

Authority's authorized representative(s) will be designated at the beginning of the Agreement for the purpose of determining acceptability of the grounds maintenance services performed. The Authority's representative(s) shall also be responsible to act on the Authority's behalf in responding to Contractor's concerns, complaints, or other issues that may arise associated with

the scope of services performed. Periodic inspections may be conducted by the Authority to ensure compliance with the Agreement.

## **2. DEFINITIONS**

On-demand: Work to be performed at the request of the Authority.

Frequency/Performance: All work shall be done according to a mutually agreed time schedule.

Grass: Botanically, any plant of the Graminae family, which is characterized by narrow leaves with parallel veins. The leaves are composed of blade, sheath, and ligules. The plants have jointed stems, fibrous roots, and inconspicuous flowers usually arranged in spikelets. For purposes of this Agreement, the term "grass" is also used to mean all low-lying vegetation, including weeds that grow in lawns, grounds, and fields.

Grounds Maintenance: The agricultural maintenance practices required to provide disease and pest-free grasses having the appearance desired. This generally includes, but is not limited to mowing, trimming/edging, policing of debris, fertilizing, raking, and control of insects, diseases and weeds.

Grounds Maintenance Debris: Plant materials occurring naturally, or residue from grounds maintenance work. This material includes branches, limbs, clippings, cuttings, trimmings, pruning, leaves, etc.

Plants: Perennial plants, including trees, shrubs, vines, ground covers, and hedges.

## **3. SPECIFIC TASKS**

### **A. Herbicides Application**

The Authority, at its sole cost, shall be responsible for supplying the herbicide material to the Contractor. However, upon mutual agreement between the Authority and the Contractor, the Contractor may provide the herbicide material and invoice the Authority for the direct cost of the material without handling or administrative fees added. The Authority may request all or only limited acreage application. All herbicide chemicals for weed control must be approved by the Authority in advance. Product mix and application methods and rates shall be as recommended by the product manufacturer. The Contractor shall follow all label requirements and not damage desirable plants. The area(s) that the herbicide is applied to shall not extend outside the area(s) under contract. The Contractor shall be responsible for any remedial actions or repairs as a result of runoff or erosion problems caused by use of the herbicide. The Contractor shall hold a valid



State of Kansas license/certificate in pesticide/herbicide use/application. The Contractor is responsible for the proper and safe use of chemicals.

#### **B. Fertilizer Application**

The Authority, at its sole cost, shall be responsible for supplying the fertilizer material to the Contractor. However, upon mutual agreement between the Authority and the Contractor, the Contractor may provide the fertilizer material and invoice the Authority for the direct cost of the material without handling or administrative fees added. The Authority may request all or only limited acreage application. All fertilizer products must be approved by the Authority in advance. Product mix and application methods and rates shall be as recommended by the product manufacturer. The Contractor shall follow all label requirements and not damage desirable plants.

#### **C. Seeding**

The Authority, at its sole cost, shall be responsible for supplying the seed to the Contractor. However, upon mutual agreement between the Authority and the Contractor, the Contractor may provide the seed material and invoice the Authority for the direct cost of the material without handling or administrative fees added. If the rental of special seeding equipment is necessary it shall be at the sole cost of the Authority. The amount of seed applied per acre shall vary depending on the seed variety, location and application rate specified by the Authority. The seed shall be applied by drilling or other equipment approved or directed by the Authority.

#### **D. Mowing**

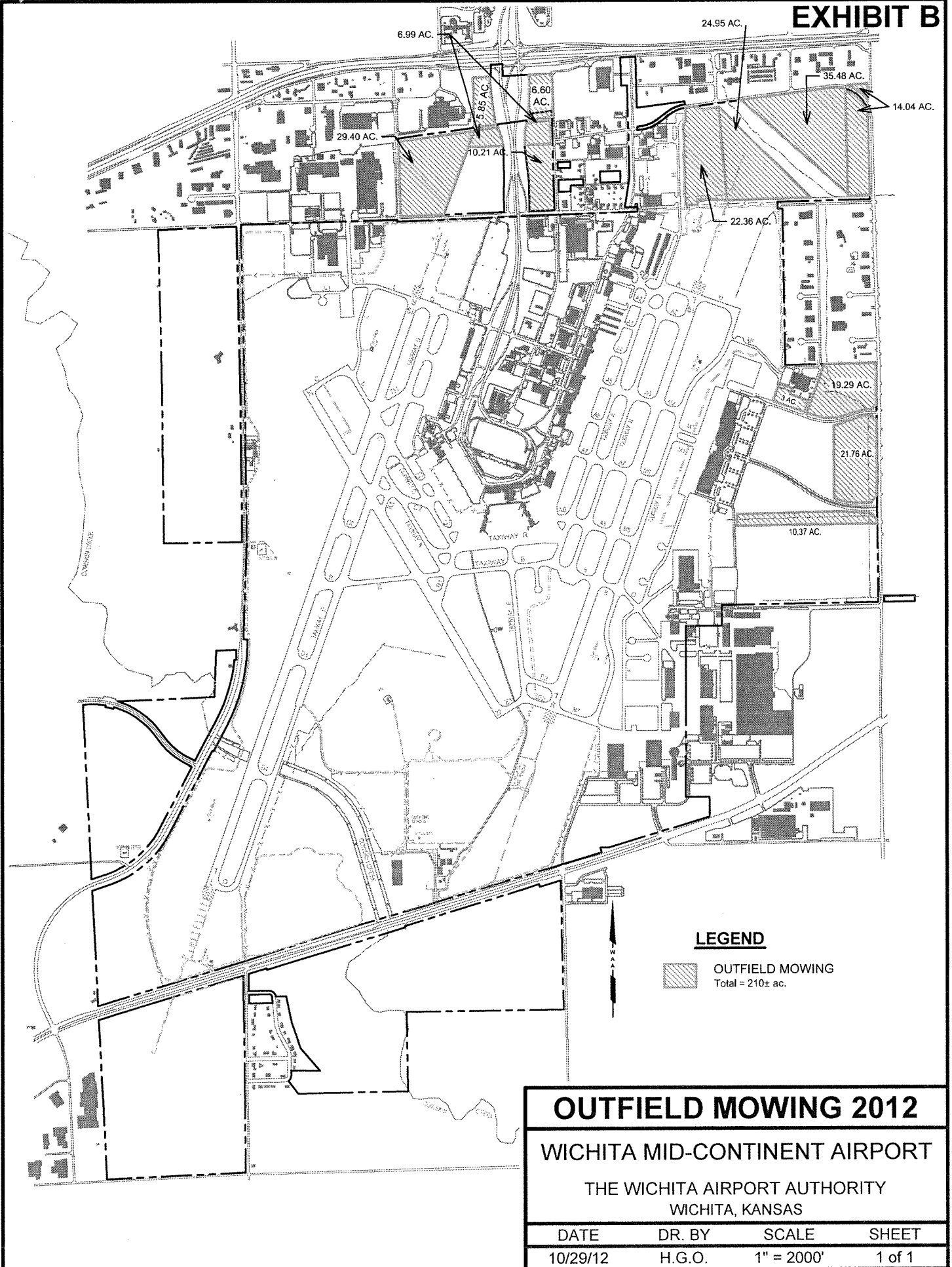
The Contractor shall mow grass areas identified in EXHIBIT "B" on an on demand basis only. Grass shall be cut to a uniform height between 5 and 5½ inches. The Authority may request all or only a limited area to be mowed. The Contractor shall be notified in writing five (5) calendar days in advance of mowing requirements. The Contractor shall have no more than Ten (10) calendar days to complete all mowing requirements (unless due to adverse weather conditions). If adverse weather conditions occur, the Contractor may request permission from the Authority for an extension. The mower equipment used shall be a rotary type mower with blades designed to prevent excessive grass clippings. Grass shall be cut and trimmed uniformly to the edges of, trees, shrubs, fences, poles, hydrants, and other structures adjacent to or within grass area. Precautions will be taken to prevent scalping, uneven mowing, rutting by equipment, and damage to trees, shrubs and fence components. The Contractor shall repair or replace, within three (3) working days, all turf, shrubs, trees, signs, and other equipment, facilities or structures damaged during mowing operations. Ruts will be filled-in as soon as weather permitting. Trash pickup will be conducted prior to mowing operations. The Contractor shall remove all debris.

#### **4. COST OF SERVICES**

Cost of services provided under the Agreement shall including labor, equipment, fuel and all direct and indirect costs of operating and maintaining same for providing the services outlined in these specifications:

- A.** Herbicide application services as outlined in this Agreement on a per acre basis for a not-to-exceed amount.
- B.** Fertilizer application services as outlined in this Agreement on a per acre basis for a not-to-exceed amount.
- C.** Seeding services as outlined in this Agreement on a per acre basis for a not-to-exceed amount.
- D.** Mowing services as outlined in this Agreement on a per acre basis for a not-to-exceed amount.

# EXHIBIT B



## EXHIBIT C

### **REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the CONSULTANT or SUBCONSULTANT, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the CONSULTANT, SUBCONSULTANT, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The CONSULTANT shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the CONSULTANT shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the CONSULTANT fails to comply with the manner in which the CONSULTANT reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the CONSULTANT shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the CONSULTANT is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the CONSULTANT shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 5. The CONSULTANT shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such SUBCONSULTANT or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, CONSULTANT or SUBCONSULTANT shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, CONSULTANT or SUBCONSULTANT shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, CONSULTANT or SUBCONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, CONSULTANT or SUBCONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, CONSULTANT or SUBCONSULTANT shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, CONSULTANT or SUBCONSULTANT will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, CONSULTANT, or SUBCONSULTANT fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, CONSULTANT or SUBCONSULTANT shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, CONSULTANT or SUBCONSULTANT shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each SUBCONSULTANT, subvendor or subsupplier.
5. If the CONSULTANT fails to comply with the manner in which the CONSULTANT reports to the Department of Finance as stated above, the CONSULTANT shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those CONSULTANTS, SUBCONSULTANTS, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, CONSULTANTS or SUBCONSULTANTS who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such CONSULTANT, SUBCONSULTANT, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.